NATIONAL MUNICIPAL REVIEW

VOL. XVI, No. 4 APRIL, 1927 TOTAL No. 130

EDITORIAL COMMENT

Chicago celebrated the birthday of the Father of His Country by arming its police with machine guns to quell rioters at the polls in a primary election. WASHINGTON lived a long time ago and never knew the elevating influences of a primary campaign.—*New York Times.*

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In order that we may cover more adequately the various reports and public documents issued from time to time on governmental topics, we have persuaded the persons named below to become review editors of the material published in their respective fields. No attempt will be made to review everything which comes out, but it will be our effort to report to you upon most of that which seems of most importance. The men who have generously consented to serve as review editors and the fields which they will cover are as follows:

Arthur C. Comey, City Planning and Zoning.
Martin L. Faust, Public Finance.
C. A. Howland, Municipal Engineering.
C. E. Ridley, Municipal Report.

We shall appreciate the coöperation of our readers in securing for review purposes copies of all reports or other public documents in our field.

A resolution submitting to the people of Pennsylvania a constitutional amendment to authorize the consolidation of the city of Pittsburgh and the county of Allegheny has passed the state legislature, and the amendment will be voted upon in November, 1928. If the amendment is adopted, as it doubtless will be, the legislature will draft a charter for the consolidated government of the 124 municipalities within the county. But before the charter becomes effective it must be approved by a majority of the voters of the county and by a two-thirds vote in a majority of the municipalities.

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Dr. W. W. Keen is distinguished for his interest in public affairs as well as for a long life spent in the practice of medicine and surgery, and our readers will be interested in the following letter received from him last month which we print with his permission:

> I have received and read your Model Registration System and very fully approve of it. I do not know just what I can do to help it along. I cannot do very much, because I have already so many engagements that I cannot add to them anything that would be burdensome especially as I am about five weeks along in my 91st year.

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Indian Viewpoint on Local Government

A movement for the improvement of local self-government is gaining headway in India under the

auspices of the Local Self-Government Institute. Soon is to be undertaken the publication of a Year Book under the patronage of the government of Bombay, and a special class for training local government officers is to be held from April to June of this year.

The Institute has prepared a general outline of a scheme to educate the people in the necessity and benefit of improved local government. Under this plan, local government will enter into practically all the affairs of life relating to health, wealth and happiness.

According to the outline, one of the functions of local government in India should be to make it possible for the citizens to secure sound and undisturbed sleep. This means "freedom from mosquitoes, fleas, bugs and other disturbing factors." Truly political problems present wide variations in different civilizations and climates. Had a New Yorker been consulted he probably would have demanded freedom from motor horns, elevated railways and court-yard cats.

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Municipal Debt Limits in Massachusetts

As our readers know, the general statutory debt limits of the cities and towns of Massachusetts are so low as to require continuous appeals to the legislature for permission to incur particular additional debts for needed public improvements. The result is a constant stream of local and special bills giving specific authorization to individual municipalities to borrow money in the amounts and for the purposes stipulated. It is probable that this practice would have broken down years ago were it not for the unwritten law that such bills before passage in the legislature must receive the approval of the director of accounts.

The plan of establishing debt limits by special legislation, however, is unsound at best, and a measure was introduced into the present legislature establishing a board consisting of the attorney-general, the state treasurer, and the director of accounts, with power to approve loans beyond the general limits prescribed by law. Unfortunately, this bill, which would have relieved the legislature of considerable detail and would have guaranteed a more intelligent administration of debt limits, failed of passage.

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Missouri Consolidation Measure Killed

The proposal for administrative reorganization and consolidation of the Missouri state government, noted in the last issue of the REVIEW, was defeated on March 9 in the lower house of the legislature by a vote of 72 to 60. The opposition came from many quarters, but was mostly political. Many rural members of the legislature fought the proposal on the ground that it would permit the governor to build up a political machine and would strip elective state officials of their powers in the governmental scheme. These officials, namely, the secretary of state, the state auditor, and the state treasurer, strongly opposed the plan. Local businesses near the various state institutions also were antagonistic, since the provisions for centralized purchasing might curtail the volume of local sales to the institutions. There was also considerable opposition because of the fact that certain organizations, particularly the Associated Industries, fostered the plan. It was thought that these agencies might have some ulterior motives in giving their support to a measure designed to bring about a more business-like organization of the state government.

Although defeated at this time, the supporters of this measure intend to

push for its adoption at the next legislature and perhaps carry it into the gubernatorial campaign of 1928.

Missouri undertook a program of consolidation during Governor Hyde's administration, and several laws grouping related governmental activities were passed. But practically all these laws were suspended through a referendum.

A. E. B.

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North Carolina Takes a Forward Step in County Government

By a series of three laws passed at the recent session of the legislature, North Carolina places herself in the van of the states which are doing something about county government. It is now possible for counties in that state to choose between two forms of government—the regular form now existing and the county manager plan. It is possible for the county commissioners themselves to install the latter plan on their own motion, but if the county board does not exercise its discretion to appoint a manager the electors may by petition bring the matter to a vote. If the majority of the votes cast at the election are in favor of the manager plan, the board must proceed to appoint a manager.

The manager is empowered to appoint, with the approval of the commissioners, such subordinate officers as the board may consider necessary, except such officers as are required to be elected by the people or whose appointment is otherwise provided by law. But inasmuch as the act does not disturb existing elective or appointive offices, the appointive power of the manager will have a narrow range inconsistent with his position as "the administrative head of the county government" and his responsibility "to see that all orders, resolutions and regulations of the board of commissioners are faithfully executed."

A novel feature is the creation of a county government advisory commission, the secretary of which is to act as county adviser. In this capacity he will visit the counties of the state to advise and assist the county officers in providing competent and economical administration. The development of this office will be watched with interest in other states.

A second bill relates to county fiscal control. The county auditor becomes the county accountant, and as such, the chief accounting, auditing and budget officer of the county. The budget estimates of all department heads and officers in charge of spending money are filed with him and he thereupon prepares his own estimates of necessary appropriations for the ensuing fiscal year. The county board then determines the appropriations for the next year, but no appropriation recommended by the county accountant for debt services shall be reduced, nor can the county commissioners make any appropriation which will infringe upon the powers of the county board of education. It is also compulsory upon the commissioners to appropriate the full amount of all deficits reported in the estimates which have not been funded as provided by law.

The third act relates to the issuance of county bonds and notes. It specifies the purposes for which bonds can be issued and limits the term of the bonds to the estimated life of the improvement as set forth in the act. All bonds are to be serial in form and no annual installment shall be more than two and one-half times as great in amount as the smallest prior installment.

The new county bond law is more comprehensive than any which has come to our attention, and applies to

counties the sound principles which should govern borrowings and which have been adopted for municipalities in a few states, notably North Carolina and New Jersey.

✦

Al Smith Seeks to Consolidate Rural Government

Speaking to a conference of 200 county supervisors and representatives of private health agencies, Governor Smith of New York recently declared that village and township government was out of date and must give way to a larger governmental unit.

"The day must come," he said, "when we shall have to get away from the old-fashioned government that was set up by our law and in the Constitution when it took a whole day to get to Albany from New York."

With his plea for the county to supersede the town in the more important administrative functions, the governor carried a step further his ideas on consolidation of government, already expressed in his demand for county reorganization and combination.

Train, automobile, telephone and radio had made people "all neighbors," he declared, and small units served only to lend confusion. Town and village government was already breaking down in Nassau and Westchester counties, where the small units were useless. Grade crossing elimination had proved impossible on the basis of village aid, he went on, and a constitutional amendment was now pending to make the counties responsible with the state.

On the question of health work, Governor Smith declared that the state was not doing nearly what it should, but that if the counties became more active their advance would be paralleled by the state.

Our readers will remember that Governor Smith earlier aroused the fears of county politicians by calling attention, in a message to the legislature, to the economies to be effected through consolidation of certain rural counties and the revamping of county government generally. But no sooner did the message reach the legislature than organized opposition to any "tampering" with the time-hallowed institution began. In vigorous language the president of the County Officers' Association pointed out that the sparsely inhabited counties have their own peculiar needs which would be ignored if they were consolidated with others. But what is more important—consolidation would disrupt existing political organizations in upstate counties which are overwhelmingly Republican. "It would take years," warned the president of the Association, "to get the organizations back to their present form."

This disaster, Governor Smith, being a Democrat, doubtless views without alarm. Nevertheless, it may be said in support of the honesty of his purpose, that the governor has also proposed an inquiry into the government of the five counties which comprise New York city and which are inalterably Democratic.

It is with a deep sense of regret and personal loss that we are compelled to record the death of Professor Victor J. West of Stanford University, who passed away on February 26 after a brief illness of pneumonia. There were excellent hopes of his recovery until the end and his death was a shock to everyone. Holding the deep affection of all because of his sterling personal qualities, he will be particularly missed by the NATIONAL MUNICIPAL REVIEW to which he was a frequent contributor and for which he always gave his services gladly.

CHICAGO'S MAYORALTY PRIMARY

BY OBSERVER

Ex-Mayor Thompson wins the Republican nomination after campaign of demagogy and is contesting the mayoralty election with Mayor Dever.

THE Chicago election of February 22 was held for the purpose of nominating party candidates for mayor, city clerk and city treasurer, and also for the election of one alderman from each of the fifty wards of the city. Under the hybrid system prevailing, the city officers at large are chosen on a party ballot, while the aldermen are selected on a non-partisan ballot. In case a candidate for alderman receives a majority of the votes cast for that office, he is elected; otherwise a second election is held in which the highest two candidates contest.

ALDERMANIC ELECTION UNEVENTFUL

The aldermanic election was declared by the Municipal Voter League satisfactory, on the whole. It is believed that the next council, notwithstanding some serious losses, will be stronger than the present body. In ten wards there was no contest, in thirty wards a choice was made in the primary, and in ten wards a second election will be held on April 5. Inevitably a great deal of confusion is caused by this peculiar law, but it has not been possible to obtain from the legislature the right to choose the mayor and other citywide offices on a non-partisan ballot.

Some 650,000 voters took part in the party primary, or nearly 70 per cent of the registered vote. In view of the non-partisan aldermanic primary, as it is called, and the failure to enforce the provision of the law requiring that a voter may not change his party for primary purposes within two years, the voters paid relatively little attention to party lines. Nor would they have done so, if delegates had been chosen.

In the Democratic primary there was no real contest, as the present incumbent, Mayor Dever, was conceded the renomination. He was given a complimentary vote of 150,000.

LINE-UP IN REPUBLICAN PRIMARY

The chief center of interest was the Republican primary contest for mayor. Three candidates started in the race, Thompson, Litsinger and Robertson. Robertson, former commissioner of health under Thompson, and now supported by the forces of Lundin, former boss of the Thompson group, withdrew early in the race, announcing that he would run as an independent. Litsinger, a member of the board of review, the principal taxing authority of the county, and a contestant for the mayoralty nomination in 1923, entered the contest with the support of Senator Deneen and former attorney general Brundage. Thompson was aided by the forces of State's Attorney Crowe, ex-Senator Lorimer (now active again), parts of the old Thompson machine, and parts of the Brundage machine.

Litsinger made an energetic personal fight, but did not have over-enthusiastic support either from the Deneen group or from the Brundage followers, while he was unable to ally the independent Republicans of the large Re-

publican wards who remained lukewarm toward him. His platform was a business administration on the positive side, and his campaign was featured by vigorous attacks on abuses under the Thompson administration. His defeat was forecast by all impartial observers ten days before the primary—a fact which itself tended to weaken him further. At that, he polled 160,000 votes, enough to win a nomination under ordinary circumstances.

Ex-Mayor Thompson's campaign was conducted upon a ballyhoo basis, not unlike that of the campaign of 1926 which Wooddy described so vividly in his study, *The Chicago Primary of 1926*. The Thompson army included a strong patronage force, recruited chiefly from Cook county offices. It contained powerful nationalistic elements, the strongest of which was the colored vote which went almost solidly for Thompson. In the second ward, for example, the vote was 16 to 1 against Litsinger.

SUCCESSFUL CANDIDATE ATTACKS KING OF ENGLAND

On the basis of these substantial elements in party warfare there was constructed a vaudeville speaking campaign with the former mayor as the chief entertainer. Preceded by two buglers he launched fearful attacks against the King of England, and proclaimed his campaign slogan of "America First". This was related to the municipal campaign by his threat to oust Superintendent of Schools McAndrews in 48 hours for alleged permission given to the teaching of disloyalty in the public schools. The former mayor also declared there was no spot in the Atlantic Ocean wetter than he, and announced that he would open up 10,000 new "places" under his administration. With this went the overtone, well understood, of a wide open town in the broadest sense of the term. The attacks upon his previous administrations (1915–1923) were branded as the inventions of jealous minds and lying tongues. "If you want to elect the greatest liar in Chicago, elect Ed Litsinger," said he. He proclaimed himself Bill the Builder, claimed credit for a generation's development of public improvements, and posed as the only real champion of the deep waterway.

The outcome of the Republican primary contest was the nomination of Thompson with 340,000 votes against the 160,000 of Litsinger. Of the 50 wards of the city Litsinger carried only one.

The real contest is between Mayor Dever and former Mayor Thompson, ending on April 5, and presenting a clear cut issue between types of administration.

STANDARDS OF ADEQUATE FIRE PROTECTION

BY GEORGE W. BOOTH
Chief Engineer, National Board of Fire Underwriters

Measurements such as any citizen may apply to the fire-fighting forces of his own city. :: :: :: :: :: :: :: ::

For more than a score of years the engineers of The National Board of Fire Underwriters have been surveying and assaying the fire defenses of the larger municipalities of the country and as a result of their experience have devised what is known as the "Standard Grading Schedule." This is in the nature of a detailed fire hazard diagnosis. The factors given particular attention include water supply and distribution, structural conditions, building codes, fire department equipment and operation, administration of hazardous occupancies, etc. The total scoring embraces 5,000 points, of which the fire department's share is 1,500. The qualifications of the chief

A Spectacular Fire Which Called into Action the Complete Fire Fighting Equipment of Four Municipalities

departmental executive, company officers, methods of appointment, enlistment and promotion, retirement provisions and many similar items are given attention.

I

The number of engines or hose companies required by the schedule is predicated upon a formula devised in the light of experience and is based on total population and the motive force of the apparatus. The ordinary formula for motor equipment is 0.85 plus 0.12 P, the letter P representing the population in thousands.

Cities of over 20,000 require ladder companies equal to 1 plus 0.03 P, and an aërial ladder is called for in districts where there are five or more buildings four stories or higher. Reserve trucks should be provided in the proportion of one to five of those regularly in use.

In regard to the distribution of fire companies, it is held that in a mercantile or manufacturing district there should be at least one engine or hose company of the horse-drawn variety within a distance of one-half mile of every point, and a ladder company within a three-quarter-mile distance. If the apparatus is of the automobile type, one-quarter of a mile is added in each case. In residential sections, the distances may range from a mile to a mile and a half for engines and hose wagons and from one and one-half to two miles for ladder trucks.

The ideal company membership in high-value districts where the apparatus is horse-drawn, calls for the following minimums:

High Value District	*Day*	*Night*
Engine	7	9
Hose	5	7
Ladder	7	9
Water tower	1	1

Slightly smaller numbers are permitted in engine companies where only motor driven apparatus is employed.

Ladder companies equipped with quick-raising devices on the aërial ladder require one man less on each shift.

The addition of two men for each company on the night shift is due to the increased difficulty of operation at night.

As far as engine capacity is concerned, it should be two-thirds of the required fire-flow, as determined by the water supply grading, with credit given for available fire-flow at 50, 60 or 75 pounds residual pressure, depending upon the number of high buildings. Reserve engines should be provided so that if one-eighth of the number of regular pieces of apparatus are out of service, there will be no deficiency.

The equipment should include powerful stream appliances, such as turret-nozzles, deluge sets, siamese couplings, cellar pipes and ladder pipes. Water-towers are required in districts having more than ten six-story buildings.

All hose and ladder companies should be equipped with small extinguishers and it is best for hose wagons to carry chemical tanks of at least 35 gallons capacity, since the quick use of the small streams from these tanks is of material assistance in keeping down water damage.

Hose requirements call for at least 1,000 feet of 2½-inch, or larger hose, per company with an equal amount of reserve, and a loaded reserve wagon should be kept on hand for emergency use. Owing to the decreased loss by friction it is suggested that hose companies responding to alarms in congested districts carry 500 feet of 3-inch hose, and engine companies and other hose companies, 200 feet each. All hose should be tested regularly, since mere visual inspection will not reveal all defects.

II

An important requirement in the interest of fire department efficiency calls for the regular drilling of the men by an experienced officer, the exercises embracing training in modern methods of fire fighting and also physical culture. Discipline should be strict.

While it is recognized that there are defects in the civil service method of appointment where selections are based entirely upon the outcome of examination, it is nevertheless believed that the appointment and promotion of all fire department employes under this system is productive of the most satisfactory operations. Political appointments have a number of unfavorable aspects including the likelihood of changes every few years. The best results are obtained where the fire chief and his higher officers are not subject to political pressure, or dismissal for party reasons. It should be appreciated, however, that retirement should take place after both officers and men have reached the point where their efficiency is no longer at par. It is believed that the retiring age should be the same as that which rules in the army and navy. A fire chief is, during a conflagration, under a strain comparable to that experienced by an army officer in battle, and he knows that if he is disabled at such a time, or makes an unwise move, the consequences may be disastrous both to life and property.

Building inspections should be made periodically by firemen and company officers, who should be empowered by law to enforce corrective measures.

Equipment and Men Must Be of the Best to Cope With Fire Like This

Other factors taken into consideration in connection with fire department operation are response to alarms, actual performance at fires, and physical conditions that have to be overcome, such as obstructions due to overhead wires, railroad crossings, poor city pavements, and so on.

It is maintained that a good water supply system in a city where the fire department is poor, or vice versa, does not result in protection as effective as that which would prevail if both were only fairly good.

III

The fire alarm system is of great importance. Boxes should not be more

than 500 feet distant from any building in mercantile and manufacturing sections and not over 800 feet distant in closely built residential areas. They should be of the so-called non-interference, succession type which in the case of simultaneous alarms permits each box to transmit its signal without confusion. Keyless boxes are favored since there is always a loss of time in obtaining the key from some neighborhood caché. The National Board recommends that there should be not more than twenty boxes on one circuit and that the fire alarm headquarters should be in a fire-resistive building, situated in an isolated spot such as a park or large square. The fire alarm system is marked for 550 points of efficiency, the police department for 50 and the building laws for 200.

Climatic conditions must likewise be taken into account since prolonged dry spells, or severe cold weather with heavy snow falls and high winds, increase the likelihood of fire and affect operations as well as the response to fire alarms.

GOVERNOR SMITH INTRODUCES THE CABINET IN NEW YORK STATE

BY JOSEPH McGOLDRICK
Department of Government, Columbia University

Not the least gain from the consolidation of the state's administrative organization is the opportunity it affords for a governor's cabinet and coördinated policy. :: :: :: :: :: :: ::

THE Short Ballot Amendment approved by the voters of New York state in 1925, reducing the number of elective state officials to four and requiring the consolidation of all government activities into not more than nineteen departments, is now in force and effect. The first elections under the new amendment were held last fall. Governor Smith, a Democratic lieutenant governor and a Democratic comptroller were elected together with one Republican, Attorney General Ottinger. The legislation emanating from the Hughes Reorganization Commission also took effect January, 1927. Under these acts, the great welter of boards, bureaus, and offices that had constituted the government of the state were brought within eighteen departments.

As a corollary to the establishment of this new organization of the state's government, the governor has created, on his own initiative, a cabinet. The cabinet has no more status in law than the President's cabinet. As Governor Smith points out: "It is the right thing. Periodical conferences of department heads are a matter of routine in every big business establishment. They could not get along without such gatherings. The state, with its highly organized business, can even less afford to dispense with councils of that character." The institution is, therefore, likely to be continued by subsequent governors.

CABINET USEFUL IN TWO WAYS

The cabinet is likely to achieve two purposes: It will aid the governor in

First Meeting of Governor Smith's Cabinet
Made Possible by Reorganization and Consolidation of Administrative Departments

determining the policies of his administration—his legislative program, his dealings with water power, the spending of the $100,000,000 bond issue authorized in 1925, and the other questions which press for solution. The cabinet is likely also to be an important aid to coördinated administration, the thing which Governor Smith emphasizes particularly. To quote him again: "The primary purpose of these meetings will be to bring about coördination and coöperation in the activities of the state, and to make the head of one department acquainted with what another department is doing. We want to benefit in common from the accumulated experience of all. Where the work of one department is as closely related to that of another, as we find in the administration of the state, it is of the highest importance that the department heads should be brought together to discuss problems of mutual concern which they must meet in common."

The governor's cabinet consists of fourteen officers, those invited to the first meeting being:

George B. Graves, assistant to the governor and head of the executive department.
M. F. Loughman, head of the department of taxation and finance
Robert Moses, secretary of state.
Colonel Frederick Stuart Greene, state superintendent of public works.
Sullivan Jones, state architect.
Alexander MacDonald, head of the department of conservation.
Berne A. Pyrke, commissioner of agriculture and markets.
Dr. James A. Hamilton, industrial commissioner.
Dr. Frank P. Graves, commissioner of education.
Dr. Matthias Nicoll, commissioner of health.
Dr. Frederick W. Parsons, commissioner of mental hygiene.
Charles S. Johnson, director of state charities.
Dr. Raymond F. C. Kieb, commissioner of correction.
Mrs. C. B. Smith, head of the state civil service commission.

This includes the heads of all of the state's departments except five. Two

of these—the department of audit and control, and the department of law—are under elective officials, the comptroller and the attorney general respectively. In not inviting these, the governor suggested that their offices were routine merely. The attorney-general is, however, a Republican, and by reason of his election during the Smith landslide, one of the most conspicuous members of his party in the state. It is more than likely that were the incumbent a member of his own party, the governor would have included him in the cabinet. As it is, the governor has—as he has always had—his own legal adviser. The heads of the department of insurance, the department of banking, and the department of public service are also absent from the cabinet list. The first two are clearly routine, while the latter is presided over by the state public service commission, a quasi-judicial body.

SIX REPUBLICANS APPOINTED TO CABINET POSTS

The appointments of the men who have come to constitute the governor's cabinet occasioned considerable notice when they were offered to the senate at the first of the year. The governor was accused of political ambition when he included six Republicans in his list. The truth of the matter is that though all of the six are of Republican antecedents, no one of them has been actively identified with that party in recent years. In fact, all of them have been Smith Republicans during most of the Smith régime at Albany. A noteworthy thing about the appointments, aside from their high standards of excellency, is the fact that, apart from Mr. Moses, all of the others were already in office. Mr. Moses, as secretary of the New York State Association has long been one of the governor's closest counsellors and with one or two others had constituted a "Kitchen Cabinet."

While the cabinet has attracted particular attention, it is noteworthy also that the governor is developing a coördinating staff. The Hughes' Commission declined to recommend a department of interdepartmental relations, but the governor is developing his own staff in such persons as Mr. Graves, the assistant to the governor and head of the executive department; Mr. Moses, the secretary of state; Mr. Sullivan Jones, the state architect, the only person not a department head who has been made a member of the cabinet, and Mr. Wilson, the director of the budget. Mr. Wilson, though not having a vote in the cabinet, will attend its meetings. It was interesting to note that Mr. Moses, who as secretary of the state will have relatively little to engage him, was placed upon the three most important of the five committees appointed at the first cabinet meeting.

AGENDA OF FIRST MEETING

The first meeting was held on Wednesday, February 9. It is planned to have these cabinet meetings follow every two weeks. The proceedings are completely secret aside from what the governor discloses to newspaper men after adjournment. Apart from the members and those specifically invited to attend, the only persons present are the governor's assistant secretary, who acts as secretary to the cabinet, and a stenographer. The agenda or calendar of the first meeting as made public was as follows:

1. Purpose of meetings. Procedure—to be explained by the governor.
2. Reorganization problems to be outlined and discussed.
3. Schedule of all public improvement projects financed from bond issue and other sources to be discussed and ordered prepared. Procedure for keeping it up to

date. To be checked and discussed at each meeting.

4. Problem as to New York city office buildings. Appointment of committee.
5. Institutional problems involved in reorganization. Appointment of committees to coördinate work where several departments are involved.
6. Discussion of certain county and regional problems involving close relation between state and local agencies, county government roads and parkways, sewers and country health, etc. Committee to be appointed.
7. Discussion of exchange of personnel incident to reorganization.

The government of the state of New York is certainly one of the largest business undertakings in the country. The state has the third largest public budget in the United States, amounting to more than $200,000,000, being exceeded in size only by the budgets of New York city and the national government.

Such tremendous enterprises could not long continue to ignore the problems of administration and the lessons of business practice. Governor Smith has been accused of aiming to make a record with 1928 in mind. It would be hard to find a better way of bringing himself before the American people. It is unfair to attribute too much of the publicity which has attended his efforts to his own ambition. Circumstances have made him a national figure and the eyes of the whole country are upon him. Above all it is noteworthy that the governor's interest in matters of administration is not a new thing but has been a characteristic of his entire occupancy of the gubernatorial office.

THE SKYSCRAPER DOES CAUSE CONGESTION

MAJOR CURRAN COMES BACK AT MR. CORBETT

BY HENRY H. CURRAN

Counsel for the City Club of New York

A reply to Harvey Wiley Corbett's article, "Up With the Skyscraper," in the February REVIEW. :: :: :: :: :: :: ::

THE NATIONAL MUNICIPAL REVIEW is always brilliant, but its usual qualities are a deep, dim, dull, dismal, doleful drab, alongside the shining, shimmering, shameless brilliancy of the February article by Mr. Harvey Wiley Corbett, entitled, "Up with the Skyscraper."

Mr. Corbett is a delightful gentleman who makes his living by building skyscrapers. With a paternal solicitude he stands up for his elephantine children. They form a monstrous brood that seem, to me, to stand up pretty well for themselves, so that all may see; and so it is with something of a thrill that I discover, in the author of this article, their father.

And such a father! With paternal partisanship for his own children, the skyscrapers, he says that city congestion is caused not by the skyscrapers, but by the automobile. He believes that the skyscraper is as innocent as the driven snow of any part in the terrific congestion which so afflicts most of our American cities, and especially afflicts New York, where Mr. Corbett lives

A Three-Level Street of the Future as Visioned by Harvey Wiley Corbett
(See Author's Postscript)

and builds skyscrapers. In one of his most sublime flights, he accuses me of picking on the skyscraper, instead of roasting the automobile as the real culprit and cause of congestion, because, perhaps and forsooth, I have just bought a new automobile.

Let me hurry to declare that I am a humble man. I never bought an automobile. I never owned one, or borrowed one, or stole one. I never had one, in any way, shape or manner. My only automobile is the subway, where I find a surplus of company and a deficit of comfort. While Mr. Corbett rides above ground in his expensive limousine, and, as he looks up in the air, counts his profits from building skyscrapers, I am being hauled to and fro below the ground through a dark tube like a mole.

I repeat that I am a humble man, and that is one reason why I gaze with awe upon the delightful qualities of Mr. Harvey Wiley Corbett, who has filled six brilliant pages of the Na-

TIONAL MUNICIPAL REVIEW in trying to convince its readers that the skyscraper has nothing at all to do with congestion in the centers of cities.

WHAT ABOUT LONDON?

Speaking of living like a mole, as I do on a five-cent fare, it would be a wonderful thing to roam around the world with my good friend, Harvey Corbett. I should like to go to London with him in order to test his statement that London, which forbids skyscrapers, suffers from a congestion infinitely worse than that of New York, where we allow skyscrapers. I was in London three years ago, and was distinctly impressed with the vastly easier traffic conditions in that city, as compared with the troubles in New York.

It is true that London roadways are crowded. But they would be much more crowded if London allowed skyscrapers. More than that, the crowding of roadways in London is due to the fact that vehicles are able to use these roadways, and do use them, instead of being absolutely prevented from getting anywhere near them, as is the case in New York. Nor has London taken either of two steps to relieve roadway traffic, which skyscraper-ridden New York has already taken to the full, and still finds insufficient. London does not regulate street traffic by red and green lights, with alternating streams and one-way streets. Neither has London built anywhere near such a complicated and expensive net of subways as New York has found necessary. If skyscrapers should invade London, that city would go New York's way. Roadway traffic would be regulated by lights and such. Subways would be built indefinitely. Thousands of vehicles would be kept off the streets and out of London altogether. In short, London would become like New York. It is to her great good fortune that she forbids skyscrapers, and therefore is not like New York.

Incidentally, Lord Ashfield, chairman of the Underground Railways of London, has just stated, after a visit to New York, that "New York has more congestion than London." Who knows best—Lord Ashfield or Lord Corbett?

WHY THERE ARE FEW AUTOS IN WALL STREET

And, speaking of vehicles being kept out of the city altogether, there is a certain degree of hilarity in Harvey's suggestion that skyscrapers do not cause congestion because the Wall Street district in New York is full of skyscrapers, but not full of automobiles. The reason is that the automobiles cannot get to the Wall Street district. They cannot get within three miles of it. They cannot by any possibility of speed and comfort, get by the barrier that is formed by the skyscraper fence across Manhattan Island at 42nd Street. The only way an automobile can get to Wall Street without spending several weeks in the attempt, is to take wings at 42nd Street, go high in the air, then fly downtown, and alight in Wall Street—or else try to swim there, under the rivers. Automobiles are not yet capable of such modes of travel.

So it is the skyscraper after all that causes congestion in New York. In this case it is the 42nd Street skyscrapers which make such a mess of things uptown, that automobiles cannot get downtown to the Wall Street skyscrapers.

And will Harvey tell us by any chance whether the sidewalks and the subways down around Wall Street are crowded or empty? Down there the people do not travel in automobiles because automobiles cannot get there.

They walk on the sidewalks and also in the roadways. The roadways are full of people instead of automobiles, just as the subways are full of people. The Wall Street subways are just subterranean sardine cans, often opened but never empty.

In the old days there was a stockade across Manhattan Island at Wall Street, to protect the white people south of the stockade from the Indians north of it. The old stockade was a wooden fence, and Wall Street was named for it. The new stockade is a fence of steel and stone skyscrapers, and it stretches across the Island at 42nd Street, instead of Wall Street. The only way to get by it at all, is to dive under it and go down to Wall Street by subway, along with all the other humble human moles like myself.

VERTICAL TRANSPORTATION AND CONGESTION

But the most brilliant gem in the whole collection, is Harvey's statement that skyscrapers really decrease congestion instead of increasing it, because they take unto themselves such an enormous amount of vertical human traffic, and thus relieve the streets below of horizontal human traffic. Harvey says that "in downtown New York, the business man consults his broker, eats his lunch, sees his lawyer, buys his wife a box of candy and gets a shave all in the same building." Perhaps he does. Perhaps the business man's broker, and lawyer, and barber, and candy man, and lunch man, all happen to be in the same building with the business man. There may even be a manicure there, and a haberdasher and bootblack as well. There is an entrancing picture of home, sweet home, in the skyscraper.

But how does the business man get into the skyscraper? Is he born there? Does he live and die there, or is his home somewhere else, so that he has to leave his home in the morning, crush his way into the subway in order to get to work there, while he is buying candy and getting a shave? And does he perhaps go out to lunch instead of having it in the same valuable skyscraper where he does all his business? And does he leave the skyscraper and go home in the evening, or does he stay there all night? And what does he do about a week-end vacation? Is that also spent in the skyscraper? Does he go to the Yale-Princeton football game in the skyscraper, and does he see the Giants and Cubs play in the skyscraper? Does he go to the theatre, to a concert, to a prize-fight in the skyscraper? And last of all, does he go home to spend the evening with his wife in the skyscraper?

Of course Harvey's argument here is so brilliant that almost it seems to fail in substance. The iridescence of his imagination includes the assumption that a skyscraper is a man's whole world, and that he lives and dies inside of it, just as immovable as though he were the inner stem of an obelisk. As a matter of fact, the intolerable congestion of our streets and subways takes place, as Harvey well knows, mostly in the morning and the evening when the peak loads are caused by the people coming to work for the day in the skyscrapers and then leaving the skyscrapers at the end of the day to go home.

In New York we are even trying to get the 800,000 people who come to work every morning in Manhattan's skyscrapers, to stagger their working hours so they will not all arrive at the same time. But if we can do this, it will be only court-plaster. It will not cure the disease.

Not even the telephone has cured the disease—and the telephone keeps more people off the streets than all the

candy-box skyscrapers in Christendom.

Is it true or not true that a 50-story building fully occupied, holds five times as many people as a 10-story building of the same lateral size and fully occupied? If you clump together several hundred huge buildings, each of them four or five times as high as the buildings of a generation ago, is it not perfectly sure that you will thus create a local congestion that cannot possibly be taken care of by the existing sidewalks and roadways, and can never be satisfied by subways, no matter how many you build?

Is Harvey really on the level with us when he spins this fairy tale about people being born, living and dying all within the skyscrapers, each in his own predestined skyscraper, which he never leaves while alive and never leaves while dead?

Of course you may be perfectly sure that Harvey and I really agree. These two articles are merely an incidental six-round bout between Mr. Corbett and myself. We have done it before, and we shall probably do it again. Harvey gets more fun out of it than I do, because his argument is based entirely on imagination. But I am limited, as well as humble. I believe all that I say.

And I believe, too, that Harvey is right when he says the "present development of the skyscraper is by no means ideal," and that it must grow "intelligently and rationally." So it must. All we have to do is to control it so that it is not done to death.

CONTROL, NOT ABOLISH, SKYSCRAPERS

My proposal is not at all to abolish skyscrapers, to kill them off, as Harvey assumes. My proposal is, on the contrary, to keep them, but control them. At present they are utterly out of control. They grow like weeds, in the wrong places and too many together.

The question is one of density of human occupation of any given cube of air resting on the earth. And that is all it is. Skyscrapers should be separated and spaced and kept within reasonable height limits so that human workaday population will be separated, scattered and decentralized, instead of all pulled into one small spot every morning and from every direction, and then being sprayed out from that same small spot again in the evening.

There is a place for skyscrapers that are beautiful. Harvey has given us a beautiful thing in his Bush Building. And there are other beautiful skyscrapers, towers and otherwise. But most of these towers are spoiled as soon as built, because an ugly skyscraper will go up alongside them, or because another tower, beautiful in itself, will rear up right next to the first tower, spoiling the beauty of both, and spoiling all possibility of human comfort in the streets below. We need a law that will preserve the occasional beauty and the attempted utility in the skyscraper, but will save at the same time, the safety and comfort of the streets below.

Is it such a wonderful attribute after all, to be just the biggest in everything? Are quality and beauty worth considering, along with quantity, size and ugliness? Do we consider them enough today?

To be very solemn and serious toward Mr. Harvey Wiley Corbett, I repeat that he is a delightful gentleman, with infinitely more insight than his article in the REVIEW would indicate. He is a good citizen and a good man, and I am very fond of him. I am all the more fond of him because he has imagination—rich, rare and riotous!

P. S.—With great courtesy, The

Editor has reproduced, on page 230, Harvey's picture of a three-level street of the future, which appeared in the February number.

Gentle reader, take a good look at this picture; feast your eyes on Harvey's Inferno. Notice the truck devils delving deep down below in the dark. Watch Harvey's limousine and its companions flitting furtively about in the gloaming on the second level. See the citizens sadly looking down, from the third level, upon the diabolical roamings of the vehicles beneath. Glance upward along the steep sides of the cliffs, which stretch from Harvey's Inferno up into God's sunshine above—far, far up, and far beyond attainment by the human ghosts buried in Harvey's Inferno below.

We are still a nation of prairies and plains and far mountains—and yet Harvey would have us forego our freedom of motion, and tie ourselves up into a pulsing pretzel of interwoven moles, squirming under the overshadowing masses of his skyscraper brood.

Harvey's Inferno—how long, O Lord, how long?

TALL TAXES FOR TALL BUILDINGS*

BY ALBERT S. BARD

Member of Citizens Union Legislative Committee; City Club State Committee; Treasurer Fine Art Federation of New York; etc.

Mr. Bard believes that present methods of valuing real estate for tax purposes are unjust as between buildings erected under changing zoning conditions and suggests a tax differential. Mr. Bard is a New York lawyer well known for his civic activities, among which are his services as member and counsel of the National Committee for Restriction of Outdoor Advertising. :: :: :: :: :: :: :: ::

When the writer first came to New York to live in the eighteen-nineties the era of steel construction and tall buildings was just under way. As he went about the city he found tall buildings going up, seemingly upon the principle of the maxim, "Do unto your neighbor what he would do unto you—only do it first." Skyscrapers were going up not merely upon the principle of erecting as tall a building as economic conditions seemed to justify, but also upon the theory that if you could get your building up first, it would appropriate to itself so much light and air that your neighbor would be discouraged from putting up a similar building. With both of them side by side neither would be attractive. The second builder could only lose money by erecting his similar building, and he would hardly be likely to sink millions just to spite a predatory neighbor. In other words, tall buildings were going up which in effect stole from their neighbors light, air and value almost as directly as if a builder should steal a part of the lot next door and build upon it—all upon the legal theory that a man

*An extension of a discussion begun by Mr. Bard in the February number, and continued by others in the March number, of The American City.

might do as he pleased upon his own land.

The question naturally suggested itself, What can be done to prevent such injustices? "City planning" was then in America little more than a name, except so far as it related to laying out streets and parks and restricting against nuisances. The "city beautiful" was then an ideal, but little thought was being given to the city convenient, the city healthful, the city just and neighborly. Exploitation was to the fore, and protection against exploitation to the rear. As exploitation progressed, the prohibition of new outrages through the creation of height limitations was the obvious and rather simple remedy proposed.

But it was seen that a tall building might be both beautiful and convenient, and the question arose whether anything could be done to equalize the situation as between the outrageous development of property and the contrary. Must there be the same rules for the hog and the human? Must virtue and civic spirit be penalized? Must the unneighborly neighbor be treated just like a neighborly neighbor? The obvious ideal would be some method by which the exploiting owner might be made to pay to his exploited neighbor the damage done to the latter's property through the erection of the tall building. But America

New Transportation Building Across Street From Woolworth Tower

Such buildings make excessive demands on city services and should bear heavier taxes, Mr. Bard believes

lacked the restraining influence of the English doctrine of "ancient lights." There was no recognized standard, either legal or moral, to apply in defining the conflicting rights of light and air claimed by neighbors. If they had inherent rights because of mere ownership, it was not clear that the state or a municipality could change them. Even what was desirable was not clear. Moreover a whole city of sky-scrapers could be built before the notoriously conservative courts could be induced to define private property rights in terms of protection rather than in the time-honored terms of exploitation to which America has been accustomed from the beginning. It seemed quite hopeless to expect any adjustment between neighbors through compulsion of payment for damage. And so the question suggested itself whether, even though the rain must fall alike upon the just and the unjust —upon social and unsocial behavior— must taxes?

But the city must suffer many years from the unrestricted tall building and the unneighborly neighbor before there could develop that public opinion necessary to any form of general restriction and regulation.

ZONING DID NOT DESTROY ALL INJUSTICES BETWEEN NEIGHBORS

Then in 1916 came the New York City zoning resolution, and some time later its final recognition and establishment as law. And here there was a certain measure of restraint for the extreme and undiluted hog.

But the old injustices between neighbors remained. Old offenses were allowed to stand. No one advocated or advocates today the tearing down or truncation of tall buildings which were legal when erected. Meanwhile we were observing what was happening under the new regulations which, in addition to fixing very liberal, and from many points of view, undesirable height limitations upon the street lines, also contained very mild setback requirements as the buildings rose higher, and permitted a tower, unlimited in height, to rise upon twenty-five per cent of the lot area. Year by year we find the area of building units growing and the seemingly unlimited skyscraper rising into loftier and loftier skies.

And thus it has come about that there is now a general acceptance of the proposition that the zoning regulations should be much more drastic than they were made in 1916. Indeed, the framers of those regulations have always admitted that the restrictions were made much slighter than they desired. They feared, however, to go too far, lest in the face of general antagonism the courts might declare the restrictions unconstitutional and throw open the door to unlimited grabbing of light and air. Accordingly, it is now plain that with the application of more restrictive rules we shall soon have a second crop of injustices as between neighbors, for the buildings will soon be in three groups: (1) the wholly (or comparatively) unregulated buildings erected before the 1916 zoning resolution, which will constitute a sort of first preferred class of buildings, which no longer may be built; (2) the buildings erected under the 1916 restrictions; and (3) the buildings soon to be erected under revised restrictions. And this process may be expected to continue from decade to decade—changing standards, and in their wake a series of preferred classes of buildings as experience drives a city to more and more restrictions.

HOW CAN INEQUALITIES BE IRONED OUT?

So we are confronted with the question, What can be done to equalize the

divergent economic conditions presented by these various classes of buildings?

There are those who frankly claim that they believe in a policy of complete condonation. Let bygones be bygones. Fix your new restrictions and compel all future buildings to conform to them, but let the old buildings alone, to occupy their various preferential situations, as the cases may be. They were legal when they went up. It is unfair now to penalize them.

But this seems to the writer wholly to overlook the new preferential treatment which such buildings receive at the hands of the law. Hangovers from previous eras receive an economic preference and advantage just as if they were granted leave to constitute themselves arbitrary exceptions to the new regulations. Why then should not this new preferential treatment be offset by a tax differential? The proposal suggested is a surtax on buildings which exceed the recognized legal restrictions of the moment, in order to equalize an economic advantage bestowed upon them by law.

Please note that the proposal does not strike at mere height as such. There is a growing recognition of the principle that the problem of the tall building must be met by restriction of volume, rather than by mere restriction of the percentage of lot area to be occupied, or by restrictions involving street cornice line and setbacks, although these are desirable as supplemental factors. Traffic problems demand a limitation of volume in proportion to street capacity. Limitations based upon a relation of volume to lot area are not sufficient, as experience now demonstrates.

Street traffic and rapid-transit factors are forcing us to consider bulk limitations. Hygiene and street congestion are forcing us to consider more open areas. These considerations are the basis of the arguments of those who would abandon the tall-building method of development and who propose so to frame their restrictions as to compel wide areas of low buildings. Opposed to these are those who believe that for certain purposes and in selected areas the tall building is essentially economic and desirable and that problems of street traffic, transit and hygiene should be met by limitation of volume, leaving the owner to build practically indefinitely into the air, if he so desires, provided he makes up for this by leaving open space at the ground and/or at various levels of his building.

For the present at least, the tall building exponents seem to have the best of the argument. They point out the extent to which vertical travel in elevators takes the place of horizontal travel in streets; that street traffic problems are the direct result of vehicular conditions rather than the result of tall buildings, and they cite in illustration of this the congestion of London and Paris (both cities of comparatively low buildings) and the freedom from vehicular congestion of lower Manhattan as contrasted with the Forty-second Street district, both areas of tall buildings. They urge that, with one acre to build upon, it makes no difference with respect to street traffic or rapid transit whether the owner builds over his entire acre up to five stories in height or builds upon a quarter of an acre up to twenty stories in height, or upon an eighth of an acre up to forty stories in height. Of course this is an excessive simplification of the illustration, because there are serious additional factors connected with elevator service in a tall building, increased cost of the building per cubic foot and the like. Nevertheless the example

serves to illustrate the principle. And so it comes about that there seems to be a growing general agreement that the answer to the congestion problem is to be found, if at all, in limitations of building volumes which shall bear some relation, more or less direct, to street areas, although it must be admitted that even here variations in the use of buildings (whether for manufacturing purposes, residences, offices, department stores, etc.) will create a variety of burdens upon the neighboring streets. Mr. Frederic A. Delano, chairman of the Regional Plan of New York and Its Environs, in his article in *The American City* for January, 1926, said, "Volume limitation is an immediate necessity."

A SURTAX ON EXCESS BULK

From what has been said it must be clear that a surtax upon a tall building need not be a tax on mere height. If the normal be defined in terms of volume, a surtax would be a tax upon excess of volume over and above the norm.

Seemingly, then, we are back to the original theme. Whatever standard is adopted for our limitations, whether volume or height or something else, or a combination of all of them, new restrictions create and will create economic differences as between existing buildings and new ones. We must assume that the new standards will be better standards and will better define the limitations of reasonable building. What, then, shall we do with the existing violators of these standards? And, next, what shall we do with buildings conforming to these newer standards if and when further changes are made and further restrictions imposed?

In my opinion we should not adopt the principle of complete condonation, but should make an effort to equalize the new economic situation in which the different land owners find themselves. My proposal is that there should be a normal rate of taxation for a given volume of building (assuming volume to be adopted as the basis of restriction) and that buildings exceeding these restrictions should pay a surtax or surtaxes in proportion to their excess over these limits. As restrictions change and buildings fall into or out of preferential situations, they would become subject to or exempt from the surtax.

Accordingly, the title of this paper ought not to be so much "Tall taxes for tall buildings," or even "Punishment taxes for robber buildings," or "Grab taxes for grab buildings," as "Equalizing taxes against specially favored buildings."

An additional basis for a tax differential is the excessive demand upon municipal services which tall buildings entail. The factors of street area and transit service have already been mentioned. In addition there are extra requirements for traffic police, the extra cost of building inspection, original and occasional, and the extra cost of fire apparatus and high pressure water mains. Other municipal services like sewers and ordinary water supply are also directly affected by the concentration of building volumes or tall buildings, although one must admit that there is more than one way to figure these costs. A front foot or a square foot basis will not give the same results as a per capita basis; nor a square foot *ground* area basis the same result as a square foot *renting* area basis. Nevertheless, after making all possible qualifications on account of disputable points, there remains sufficient residuum to sustain a surtax upon the principle of taxation according to municipal burdens. This may be regarded as taxation in proportion to benefits received (upon the

same principle as assessments are laid for local improvements) or in proportion to the municipal services to the particular real estate in question, whichever way one wishes to state it.

PUTS A PREFERENTIAL ON PREFERRED BUILDINGS

In reply to those who favor a policy of complete condonation I would also point out that mere inequality between buildings of successive and different standards of regulation creates an undesirable lag in the tide of improvement. The application of a surtax against non-conforming buildings, with a resultant equalization of economic conditions, or to put it more briefly, the imposition of a preferential upon preferred buildings, would make it easier to bring about the imposition upon real estate of new standards demanded by experience; indeed, their acceptance by real estate. My proposition is this: The straight taxation of capital values in real property amounts to unfair taxation as between various parcels or classes of real property. This injustice causes a lag in the tide of municipal improvement and is an obstacle to the enactment of regulations which are greatly desired. A city hesitates to put regulations into effect because they may be unfair as between owners, because they will benefit A, while hurting B. Land owners who are confronted with the proposed new restrictions plead that others have already built in violation of the new restrictions and they should now have the same privilege.

One is justified in asking the one-hundred-per-cent condonationists why they object to the equalization of economic conditions by means of a tax differential? It is no answer to say that bygones should be bygones, because bygones are *not* bygones. The law is being changed, and thereby a preferential position is being conferred upon non-conforming buildings. If the city grants with one hand, why should it not take with the other?

Objection is made that the imposition of a preferential tax upon preferred buildings is double taxation. The writer does not follow this argument. It seems to him that what we are taxing is an entirely new thing, namely, the preferential treatment received by the non-conforming building. Whether it be termed an excess volume tax or a tax upon a preferred site or something else, we are merely taxing a privilege which is denied to the next-door neighbor.

In my opinion it would be a wholesome thing for the community if it were generally known and understood that an unneighborly neighbor, erecting a building upon the theory that he may gain an unfair advantage at the expense of his neighbors solely by reason of his early "improvement" of his own lot, will not permanently, nor long, enjoy the fruits of his appropriation of his neighbors' property, but that the equalizing hand of taxation will reach him later. In these circumstances he may pause and think twice before he builds. He may modify his building plans to conform to more neighborly standards.

Nor is it any answer to say that such a system would be a retroactive law and unjust. The injustice lies with the present law, which places a premium upon robbery and monopoly when once accomplished, and which protects the fruits of unsocial conduct. A truly enlightened system of law would not offer sanctuary to the robber landlord simply because he can reach the altar of predatory construction before the hand of the law can reach him. It would be wholesome for the robber landlord to appreciate that justice is to

overtake him finally, even though it lags behind.

PRESENT ASSESSMENTS DO NOT PROVIDE DIFFERENTIAL

A more serious consideration seems to me to be the argument that the differences described can be taken care of in the assessed valuations of buildings—that a preferred building will earn more, and so will be worth so much the more, and will, or may, be assessed accordingly. My answer is two-fold: First, buildings are not assessed for taxes, except indirectly, upon an income basis. If they were it would accomplish an economic equalization between conforming and non-conforming buildings. There would be certain objections to such a method. Bad planning and bad management would avoid their economic penalties. Good planning and good management would lose their economic rewards. But it is certainly true that the capital value tax now imposed on real estate is a very different thing from an income tax, and is likely to remain so. At present, capital values take account of cost, reproduction values, depreciation and the like, according to somewhat conventional rules. Income is only one factor, and an indirect one at that.

In the second place, under any system of capital valuations, the income factor, which might be used to level injustices if frankly applied as a measure of values for tax purposes, operates to the contrary; the capital value of property A is affected not alone by its own income, but also by the income of properties B, C and D in the same neighborhood. In other words, the capital value of property A depends in part upon its *potential* income, not its *actual* income, and this is especially true with respect to land values as distinguished from building values. Its assessed value is an estimate of what it would be worth if used in a certain way, not as it actually is. So it seems to me that so long as real property taxes are based upon estimates of capital values, there is bound to be economic inequality between conforming and non-conforming buildings which flows exclusively from that difference.

IS A TAX DIFFERENTIAL CONSTITUTIONAL?

Whether taxation according to the tax differential principle herein suggested would require constitutional amendment in any state would depend upon the language of the present constitution. A mere requirement that taxation must be "equal" would not seem to be an obstacle. "Equal taxation" admits of appropriate classification of the subjects of taxation. The only question is whether a class of property subjected to particular requirements forms a legitimate class. If under a constitutional provision that taxation must be "equal," some property may be taxed while other property is made wholly exempt, it would seem to be perfectly constitutional to tax one class of real property at one rate and another class at another. The only question would be whether the two properties are really in different classes, *i.e.*, as to the soundness of the reasons for discriminating between them. And it is submitted that differences (a) as to advantages permitted to different properties, and (b) as to municipal burdens created by such properties, create a sound basis for a difference in classification for tax purposes, if a legislature so desires.

But it makes no difference with the main argument whether such taxation is at the moment constitutional or not. If the principle be sound and if it be

found to be a real amelioration of a real evil, constitutions may be changed.

Will the courts sustain legislation creating land surtaxes of the kind suggested? Probably not without a great deal more education than many of them now have. Courts are notoriously conservative and many of the judges are poor students of current economics and social science. Even when intelligent enough to see, they feel that they lack power. They are tied hand and foot by bonds of precedent which they have not the courage to break.

But this does not essentially affect the proposal. An evolution in the law has taken place under our very eyes with respect to the whole subject of zoning. Some states today judicially declare themselves helpless, although they are really only psychologically inhibited. On the other hand, the Supreme Court of the United States and the New York Court of Appeals have recognized the legal soundness of zoning in its broadest aspects. The inhibited states may be expected gradually to free themselves from their inhibitions.

A similar evolution has been taking place in the recognition of æsthetics as a justifiable ground for the exercise of the police power. At first it was vehemently denied that æsthetic considerations could be made the basis of any legislation whatever. Then land owners and the public began to wake up to the fact that they were suffering monetary damage to property values and were being outrageously exploited by the outdoor advertisers and by the exploiters of land areas, and it was seen that such decisions were merely a shutting of the judicial eye to facts. Now the courts recognize that æsthetic considerations may have a place in land regulation, provided it be subordinate and incidental to the exercise of the police power upon other grounds. We may hope that in time æsthetic considerations may be frankly and completely accepted as a proper basis for the exercise of police power.

One further word may be added to the discussion of a surtax as a method of affecting the volume or height of tall buildings. Is it a proper means of bringing economic pressure to bear upon landlords in favor of lower buildings? It is argued, on the one side, that restrictive standards should be set and enforced, and that no privilege to evade or modify them should be bought at the price of higher taxes. On the other side, it is urged that such a privilege would operate within a certain narrow region to make restrictive provisions more elastic; that sites in any city vary so much in *potential* value, depending in part upon their use, that some sites will stand an additional economic burden, while neighboring sites, less favorably situated, will not; and that the right to purchase a more intensive use at the price of a higher tax would give a certain elasticity in dealing with particular sites. However this may be, this is a different question. This paper deals with the building surtax, not as pressure put upon the landlord to keep his building low, but as an equalizing economic factor between landlords unequally treated with respect to building restrictions. Both problems are alike in one respect. They suggest the just use of law to direct and modify economic forces for the good of the community. We may remind ourselves of Rousseau's remark, that when virtue and self-interest pointed in the same direction, he found it less difficult to be virtuous; and so, abandoning the direct struggle for virtue, he gave his attention to the easier problem of creating conditions in which virtuous action would promote his own interest. Here is a suggestion for city planners and law makers interested in either question.

THE LEGALITY OF A SURTAX UPON BUILDINGS OF EXCESSIVE VOLUME

COMMENT BY FRANK B. WILLIAMS

Mr. Bard has evolved a plan for the supertaxation of the building of undesirable bulk in favor of which much may be said. The original suggestion along this general line was that in addition to the tax of the usual percentage of the value of such a building and the lot upon which it stands, a second tax, at any proper rate, be levied upon the value of that part of the volume of the building which exceeded the desired norm. This crude scheme is clearly double taxation in its most objectionable form, which we are not likely to escape from by any probable constitutional change.

Much of what is popularly known as double taxation—as for instance, a tax on real estate against the owner, and a tax on a mortgage on that real estate against the holder of the mortgage—is unobjectionable in law and is often resorted to. Technical double taxation consists of two taxes: "(1) imposed upon the same property, (2) by the same state or government, (3) during the same taxing period, and (4) for the same purpose"—without taxing all the property in the jurisdiction a second time.[1] Such taxation is universally condemned by the courts as contrary to the policy of the law. It is often said by the judges to be within the power of the state, but such an authority as Cooley doubts whether the highest court of any state or any federal court has ever directly upheld such a tax, or ever will do so.[2]

The merits of Mr. Bard's scheme so far removed from double taxation in this form, I need not repeat. Many experts in taxation decline to follow him in any such direction. They admit that taxation has often been used for other purposes than the production of revenue, and deplore it. They believe that, so limited, its difficulties are many and its shortcomings severe; they do not believe that real reform lies in further departures of this nature. I am not attempting, in the brief space at my command, however, to sum up the entire case for or against the plan, but only to point out certain legal difficulties not likely to be removed by constitutional amendment.

And these difficulties are in the application of the scheme. The legality of taxation according to benefits received or burdens imposed upon the community may be freely admitted; there still remains the task of devising a classification for either of these purposes which will be reasonable. I find difficulties in doing this so great that I am in grave doubt whether it can be done; and, if not, the scheme on its legal side would seem to be unsound. It has been calculated that an office building of fifteen stories, a loft building of nine stories and a department store of three stories, covering the same area, produce about the same amount of street traffic. How, then, can a classification of these buildings, for purposes of taxation, in accordance with their bulk, be based upon such benefits or burdens? A legal principle of this nature is not fully stated until it is put into the concrete form of a law. Mr. Bard has made a promising beginning; let us hope that his task will be completed, in order that we may judge his proposal fairly. It certainly merits the fullest consideration.

[1] Cooley, Taxation, 4th Edition, Sec. 223.

[2] *Ibid.*, sec. 224, especially note 30.

MUNICIPAL REPORTS

BY CLARENCE E. RIDLEY

School of Citizenship and Public Affairs, Syracuse University

How we can improve the art of municipal reporting to citizens and taxpayers. :: :: :: :: :: :: :: :: ::

It is axiomatic that a report which fulfills the purpose of its creation must be read. There is only one way to have it read—that is to make it readable. The time should be past when the annual report may be merely a document decreed by law or custom and designed primarily for the purpose of conserving financial statistics and historical facts. These data have their value but not in an annual report intended to be read by the public.

SHORT PERIODIC REPORTS FOR EMPLOYEES

This brings us to the important question so fundamental in report writing, viz., for whom is the report prepared? This question settled, the main problem of writing a report is solved.

For instance, daily, weekly, monthly and special work reports should be intended primarily for the information and benefit of those directly responsible for the administration of the city's business. In other words, they serve largely in the capacity of control agencies and should be designed with two motives in view. First, the information required on these shorter periodic reports should be such as to be useful for the administrator in his exercise of control over the various departments and bureaus wherein they originate. In the second place, all types of reports ranging from the daily report to the special work reports should form the successive bases of a subsequent report until the pertinent data finally culminate in the annual report.

IMPORTANCE OF PERIODIC REPORTS

As sound judgment must be based upon proper and accurate information, it is evident that the design of these reports is a task of great and far-reaching importance. If the public administrator will realize that the railroad president with his large administrative responsibilities is only able to exercise efficient control over the far reaches of his tracks by means of such periodic reports, then the administrator will foresee their indispensability for effective city administration.

THE ANNUAL REPORT INTENDED FOR WHOM?

So, also in a discussion of the annual public report an answer must be found for the question, for whom is it written? This answer is more involved for in the past this report has attempted to serve two distinct groups of readers, possibly three if that group of the city's employees interested especially in administrative data concerning their respective offices is included. As matters of peculiar interest to this third group should be disposed of in the other periodic reports heretofore mentioned, it may be eliminated in answering the above question.

There now remains for consideration two groups of readers: (1) the general

public and (2) the administrators of other cities who are attempting to find sources of comparative data with which to compare their own work. Obviously the same data similarly presented will not serve more than one group of these readers. The attempt some report writers have made to serve more than one group partly explains the mediocrity and in some cases the utter uselessness of many municipal reports.

NEED FOR STANDARDS OF ADMINISTRATIVE EFFICIENCY

Any attempt to serve the administrators of other cities before standards of administrative efficiency are worked out which easily lend themselves to comparisons would appear to be futile. A great service to municipal government will be rendered by the design of such standards which may be universally adopted. Therefore, with full recognition of the great need for such a service that the municipal report of the future should serve, for the present let our "readers" be narrowed to that important group who are paying the bills—the general public of the city in question. To draw the specifications of an annual report which will be read or at least will attract the attention of this group is the real problem to be considered and forms the answer to the question above.

PURPOSE OF THE ANNUAL REPORT

The purpose of the report should be to inform the taxpayers of what their administration is achieving, of the attempts to meet the needs of the people and the cost of these activities. This means not so much an attempt to justify previous actions but an effort to secure sympathetic support where the facts justify; perhaps it should be added to obtain criticism where again the facts justify. It should not, therefore, be a pretty picture book jammed with concealed propaganda to win an election.

It would appear that a combination of the proposed budget for the ensuing year with a report of the accomplishments of the past year for each important activity could serve a very useful purpose if the data were placed on opposite pages to aid in comparing and analyzing changes. Surely an administration should account for their past stewardship before asking for a further trust.

SOME ESSENTIALS OF A GOOD REPORT

There are several essentials of a good municipal report which should be kept firmly in mind. In the first place, it should be characterized by at least three important requisites, viz., promptness, conciseness and attractiveness.

Promptness. The report should be published shortly after the end of the period covered, at least within four to six weeks. In this day of the radio and the news reel the general public will not give serious attention to a report which loses most of its value during the first six months and all of it by the end of one year. Perhaps it will have a value to a very select few. A report, the facts of which are several months old when published, deserves the fate it invariably receives—the waste basket.

Conciseness. The report must be concise and definite. If the content is discriminately selected, forty to fifty pages of a convenient size, including all charts and pictures, will contain sufficient information. At any rate, a larger report will lead to obscurity and overwhelm the public by its very bulk. If one doubts that a great deal of meat can be packed into a small space, he should consult the report of a railroad, an insurance company, or a large banking house. Competition must be made

with newspapers, magazines, movies, etc. Therefore, the report must be made both attractive and interesting. This should not be difficult for the material has a real human interest. The caution is that it be not killed in the process of preparation.

Attractiveness. Attractiveness should not be attempted in the form of a gaudy cover but rather in the effort to bespeak economy with dignity, by a neat cover with perhaps a picture or a chart representing the outstanding accomplishment of the year. The reader may, therefore, be the easier attracted to the contents within. Neither should the contents attempt attractiveness by "scare" headlines, or sensationalism. Attractiveness can be best obtained by dignity and personality. The report should contain both.

MADE INTERESTING BY PICTURES AND CHARTS

In order to make the report interesting, each page should employ if possible either a picture or a chart. Charts and pictures should not be selected merely to "break" the page, but rather because they tell a story. This is not an easy matter, yet it is one that is essential if the report is to be read.

An attempt is frequently made to show too much on a graph or chart. It is best to have more charts than attempt to tell too many things on one chart. Complicated charts defeat the purpose for which they are intended as well as lessen the interest in the remaining part of the report. Of course, charts and pictures should always be placed in or very near the reading matter to which they relate.

PREPARATION OF MANUSCRIPT

In regard to the actual preparation of the manuscript, it can doubtless be done best by each department. Following this preliminary preparation it should be reviewed and arranged by the chief administrator and then edited by some one either in or out of the organization who appreciates the viewpoint of the average reader. Needless to say, the report should be free from half-truths, propaganda and prejudices. Comparisons should be made with previous years and if possible with other cities, even though such comparisons are unfavorable.

If another city has been found to have a better record, it should be acknowledged with a statement that an effort is being made to equal it. Quite obviously this will increase public confidence in the report and give evidence of honest intentions.

SIZE, COST AND DISTRIBUTION

The report should be of a convenient size (6″ x 9″ is the most common size) and be printed on good paper of a type easily read. Different activities designated by separate headings and marginal indices will increase the ease of reading. In short, it should be constantly kept in mind that the report must be quite generally read or the effort has failed and consequently those essentials which will make the work more attractive and interesting should be a continuous guide. Economy of words is a good maxim to follow. The cost of such a report of forty to fifty pages, including half-tones, will vary from ten cents to forty cents depending upon the amount of art work done, kind of material and number printed. Every home in the city should receive a copy. As to whether they should be mailed, delivered by a patrolman, or distributed by the Boy Scout organization, as some cities have done, is a matter governed largely by local circumstances.

ARE WE SPENDING TOO MUCH FOR GOVERNMENT?

I. THE TREND OF FEDERAL EXPENDITURES

BY J. L. KEDDY, PH.D.

This is the first of a series of articles which will cover governmental expenditures in city, county, state and nation. :: :: :: ::

A QUARTER of a century ago, following the war with Spain, our national legislature was dubbed "the billion dollar Congress," and Speaker Cannon retorted, "This is a billion dollar country." By 1916, our annual ordinary expenditures had doubled, and the assemblage on Capitol Hill might quite properly have been redubbed "the two billion dollar Congress." During the next three years, the World War required the expenditure of $34,000,000,000. Then, from a peak of eighteen and a half billions in 1919, expenditures took a sharp drop. In 1920, they stood at $6,482,000,000, 1921, $5,538,000,000, and 1922, $3,795,000,000, excluding the postal service. Federal expenditures at last seemed to be approximating more normal figures.

In June 1921, Congress authorized the establishment of the budget bureau as an instrument for the more careful planning of the annual fiscal program of the federal government, and as a complement to that bureau, it created the general accounting office to facilitate control of expenditures throughout the fiscal year. In keeping with the centralization of power in the executive branch of the government, Congress at its next session concentrated authority over appropriation bills in the hands of two committees, one in each branch. Each of these committees organized a group of subcommittees, specializing on particular departments and independent establishments. As a corollary to all these efforts toward more effective planning and control of expenditures, a joint congressional committee cooperated with the President and determined whether a better adjustment of the federal administrative machinery would permit any appreciable reduction in cost of operation. This committee reported to Congress a plan to make certain improvements in the existing organization of the executive branch of the government, but made no claim that such improvements would reduce federal expenditures.

$3,500,000,000 IS ROCK-BOTTOM

What are the results of the efforts of the various agencies cited above? Despite vigorous and persistent activity on their part, it appears impossible to reduce the ordinary expenditures of government, excluding the requirements of the postal service, below the three and a half billion mark. The following table illustrates this:

1923	$3,697,000,000	Actual expenditures.
1924	3,506,000,000	
1925	3,529,000,000	
1926	3,584,000,000	
1927	3,643,000,000	Estimated expenditures.
1928	3,572,000,000	

Ever since 1909, when Senator Aldrich astounded the country with the declaration that the budget (then totaling roughly $700,000,000) could be slashed $300,000,000, without hamper-

ing the federal government, the statistically inclined citizen has been wondering if such an amazing reduction in costs were possible. Like the $29,000,000 fine imposed on the Standard Oil Company by Judge Landis years ago, this $300,000,000 figure has become one of the famous arithmetical expressions of recent history. Both sums received extensive publicity, and the echoes of Senator Aldrich's assertion reverberate to this day. Such statements, however, are significant chiefly because they are gross inflations of the real facts. The thing that arrests attention in recent fiscal history is that $3,500,000,000 appears to be the irreducible minimum of federal expenditures from this date forward. President Coolidge, Director of the Budget Lord, and leaders of the House and Senate have all stated that further large cuts in appropriations would not be constructive economy, but would seriously cripple the conduct of federal activities. The claims that reorganization of the executive departments and independent establishments and elimination of alleged duplication of work would facilitate the saving of startling sums have proved to be chimerical. The task which the leaders of the party in power have set before themselves now is the squeezing of full value from every dollar spent, the rejection of any new national projects requiring federal aid, and the most economical financing of such new activities as are deemed to be indispensable.

COMPARISON WITH PRE-WAR YEAR

With $3,500,000,000 as the rock-bottom of future federal expenditures, let us analyse in a general way the several major functions which have to be appropriated for from year to year and compare the amounts expended in 1915 with those expended in 1926.

	1915 Expenses	1926 Expenses
General administration	$51,000,000	$115,000,000
Military functions	436,000,000	1,178,000,000
Civil functions	221,000,000	516,000,000
Public debt, refunds, trust funds	52,000,000	1,776,000,000
Total	$760,000,000	$3,585,000,000

The differences between the cost of government in 1915, a normal pre-war year, and 1926, a normal post-war year, are obviously remarkable, but the causes therefor are not hard to find. In the first place, the United States is now paying the bills incurred on account of the World War. The handling of war finances requires the extraordinary outlay of a billion and a third dollars, *i.e.*, the collection of taxes, the payment of interest, and the retirement of the public debt. Second, the maintenance of the disabled veterans of the World War adds another four hundred millions to this item. On the other hand, what might be called current ordinary expenses, that is general administration, national defense, and civil activities have doubled since 1915, increasing from two-thirds of a billion to a billion and a third. Thus out of $3,585,000,000 expended in 1926, nearly two billions can be charged outright to the "war hangover," that is, the administration of the colossal public debt (aggregating nearly twenty billions) and the maintenance of disabled veterans of the World War. This leaves $1,360,000,000, excluding

$434,000,000 for extraordinary tax refunds and trust fund payments, for the ordinary business of government as compared with $710,000,000 in 1915. The following table illustrates this:

	1915 Expenses (In Millions)	1926 Expenses (In Millions)
Financial administration	21	62
Maintenance World War veterans	...	405
War debt payments	...	1,324
Total World War expenses	...	1,791
General administration	32	52
National defense	260	554
Military pensions and retirement pay	176	238
Civil functions	221	516
Total current ordinary expenses	710	1,360
Refunds and trust fund payments	50	434
Grand total	760	3,585

CAUSES OF 100% INCREASE IN ORDINARY EXPENDITURES

Putting our attention entirely on the middle group, the current ordinary expenditures, what are the causes for the doubling of costs since 1915? Of course, wholesale prices for supplies, material, equipment, plant, etc., have increased fifty per cent since 1915, while salaries have increased during the same period possibly thirty-five per cent, taking the government payroll as a whole. But to apply these percentage increases to the 1915 expenditures for the purpose of adjusting the figures for comparison with 1926 greatly complicates the analysis and produces some curious and inexplicable conclusions. Leaving this factor out entirely, therefore, and making a direct comparison between the 1915 and 1926 figures, the reasons for the increase can be readily explained. The first item to consider is that of general administration. Expenditures for this function have increased because of a general rise in salaries in the legislative, judicial and executive branches of the government, aggregating some thirty-five per cent. The judiciary, the government supply service, and the public building service have also been considerably enlarged.

The second item of increase is that of national defense. The cost of this function, involving the maintenance and operation of the army and navy, has risen because of the strengthening of the two arms of defense in keeping with our position as a world power.

The third item, military pensions and retirement pay, has increased but not in proportion to the national defense and civil functions. This increase is due to the granting by Congress of more liberal pensions to veterans of other than the World War and the accentuation of the retirement policy of the war department for the purpose of reducing the officer personnel in the higher grades.

The third item, civil functions, has increased some $291,000,000 since 1915 and for a variety of reasons. The following table will facilitate the discussions:

	1915 Expenses (Millions)	1926 Expenses (Millions)	Increase (Millions)
Foreign relations	5	16	11
General law enforcement	4	37	33
Control of currency and banking	3	7	4
Administration of Indian affairs	13	14	1
Administration of the public domain	11	28	17
Promotion and regulation, commerce and industry	3	16	13
Promotion, regulation and operation of marine transportation	17	46	29
Promotion and regulation, land transportation	4	9	5
Postal service deficiency	9	40	31
Promotion and regulation of agriculture	15	30	15
Promotion and regulation of fisheries	1	1½	½
Promotion of labor interests	¾	4	3¼
Immigration and naturalization	3	6	3
Promotion of public health	7	18	11
Promotion of public education	3	10	7
Science and research	7	12	5
Public works	99	173	74
Local government	14	41	27
Total	217[1]	508[2]	291

Three of these functions, it will be noticed, embrace activities that did not exist in 1915, namely, the enforcement of the prohibition law, which is included in general law enforcement, the granting of federal aid to states for the construction of highways, and the maintenance and operation of the government merchant marine. Prohibition has added thirty millions to the federal budget, the annual Federal road grant amounts to eighty millions,[3] while the cost of maintaining our merchant fleet on the high seas runs over twenty-three millions. These three items total 133 millions of the 291 millions increase in the cost of civil functions.

The deficit in the operation of the postal service has increased since 1915 thirty-one millions. This is due to an exceedingly generous increase in pay to all employees in the postal service and the failure of Congress adequately to finance the pay raise by appropriate rate increases.

Local government, including the District of Columbia, the territories, and our insular possessions, shows an increase of twenty-seven millions. This increase is practically all due to the advance in the cost of governing the District of Columbia. The seat of government has nearly doubled its population since 1915, calling for a tremendous increase in municipal activities. A public works program of staggering proportions has been underway for several years, financed under a pay-as-you-go policy, while the fire and police departments have had to be greatly enlarged in order properly to protect the newly built-up areas.

For the purpose of more effectively promoting and serving the economic interests of the nation, the state, commerce, agriculture, and labor departments have expanded their activities, increasing the cost of operations some forty-six millions. The administration of the public domain, particularly the

[1] Omits three millions for relief of war sufferers.

[2] Omits eight millions for revenue-producing enterprises.

[3] River and harbor expenses were less than in 1915.

national forests and parks, has increased seventeen millions, due to the greater utilization and better protection of these areas. The promotion of public health and public education has likewise been generously appropriated for, expenditures rising to eighteen millions.

THE NEXT TWENTY-FIVE YEARS?

In consideration of the facts revealed by this rough analysis, what then is the trend of federal expenditures in the next twenty-five years? Excluding the possibility of national emergencies, such as war, there will be a gradual expansion of the federal budget. Despite the closest scrutiny of the President and his chiefs of staff, the inevitable increase in the population of the United States, the natural extension of our economic activities, and the further improvement in our defenses, must necessarily call for additional expenditures that will exceed the annual reductions in the costs of caring for our World War veterans and amortizing our war debt. Then, by the time our debt of twenty billions of dollars is liquidated, the federal government will be forced to utilize the billion dollars annual fixed charges, thus released, for the extension of federal activities long held in check and repressed.

THE FATE OF THE FIVE-CENT FARE

VI. TOLEDO REWRITES SERVICE-AT-COST FRANCHISE

BY VIRGIL S. SHEPPARD

Secretary, Toledo Commission of Publicity and Efficiency

The proposed new franchise, which must pass the scrutiny of the electorate, gives the street railway company a monopoly of all public means of street transportation but retains the old valuation deemed by many too high. :: :: :: :: :: :: :: :: ::

If the supply of gasoline were to become exhausted today there would be no street car problem in Toledo tomorrow.

The use of this dynamic fluid to propel pleasure and business vehicles seems to have made the transit question in Toledo almost hopeless of immediate solution. The advent of the privately owned automobile found this city with its population rather thinly spread over a large area, but congested enough to make street car transportation a paying venture under monopolistic privileges. But with thousands of individually owned transportation systems in daily use, with the city probably less congested than fifteen years ago, and with no portion of the municipality increasing in population rapidly enough to permit extensions of street car lines, street car riding has decreased twenty million passengers in five years.

At the same time car riders have demanded the same or better service than formerly. The desire to get from one place to another as quickly as possible, which seems to be one of the habits formed by automobile riding, has had its influence upon the cry for improved street car service.

It can, therefore, be stated without fear of contradiction that the most important single factor which has caused a

former five-cent street car fare to increase to a rate of ten cents cash, three tickets for a quarter with one cent transfer, is the private automobile.

However, the car fare in Toledo would undoubtedly be lower than the present rate if motor bus competition had been eliminated, if the capital value of the street car company under the terms of a service-at-cost franchise granted in 1921 had not been placed at too high a figure, if a sufficiently large depreciation fund had been provided, and if the city had not attempted to buy the street car lines through requiring car riders to pay a higher rate of fare.

A BRIEF RETROSPECT

To give proper perspective to the present transit difficulties in this Ohio city, a little retrospection is necessary.

The street car question has troubled Toledo for almost a quarter of a century. In the first years of the quarter the efforts of the public officials were directed toward vain attempts at reducing a five-cent fare to a three-cent basis. Now the demand is for the reduction of a ten-cent fare, with better service, better equipment and safer road beds.

The first fifteen years were spent in trying to prevent the granting of a franchise to the street car company or, since most people still speak of the company in terms of an individual, to Henry L. Doherty, who is said to be the owner of most of the Company's bonds.

The next five years were spent in dilly-dallying with proposals for municipal ownership and service-at-cost franchises. It was during this period that "Hank" Doherty, starting at the wee hours of the morning, transported all of his street cars into Michigan, only to have them ordered back by the judge of the local federal district court.

After two or three proposals were voted upon by the electorate, a terminable service-at-cost franchise, somewhat modeled after the Cleveland agreement, was granted in the fall of 1920. It goes without saying that the knottiest problem which had to be solved by the franchise drafters was the valuation of the property of the company. After calling in several experts, after several "bargain" meetings between city and company officials, and after earnest pleadings of the federal judge who called back the street car system from our northern neighbor and who had appointed a receiver for the company, the valuation was fixed at $8,000,000.

Looking back now, many people realize that this figure was much too high in light of later developments, especially so, because of the worn out equipment and the absence of a depreciation fund to pay for renewals. Whether some "water" existed in the capital value in 1920 or whether all of it accumulated later is an open question.

THE 1920 FRANCHISE

The main features of the 1920 franchise are as follows:

1. A twenty-five year grant with right preserved to the city to purchase or lease the street car lines at any time.

2. A rate of fare adjustable up and down, according to the earnings and expenditures of the company. The earnings must be sufficient to maintain in addition to the current operating fund, the following funds: a repair fund, a small depreciation fund, a sinking fund and a stabilizing fund.

3. From the stabilizing fund is paid the return to the company, 6 per cent on all mortgage bonds of the company and 8 per cent on any preferred stock issued for betterments. When the stabilizing fund reaches $500,000 the fare would be reduced; when it de-

creases to $300,000 the fare was supposed to be increased. Needless to say the rate of fare effective when the franchise became operative, six cents cash, five tickets for a quarter, was never lowered.

4. Into the depreciation fund is paid each year an amount equal to 1½ per cent of the capital value. With no depreciation fund established prior to the date the franchise became effective and with the tracks and other equipment then in poor condition as the result of twenty years of uncertainty as to whether the company would be granted a franchise, this fund was very shortly found to be inadequate.

5. To the sinking fund the franchise provides a payment each year of an amount equal to 2½ per cent of the capital value. This fund is used to redeem bonds of the company. In place of the redeemed bonds common stock is issued. This common stock is handed over to the city and constitutes the city's ownership in the company. However, at no time could the city own more than 20 per cent of the capital value obtained through the sinking fund.

This ownership feature seems now to be the one of the chief causes of the apparent failure of the present franchise. At the expense of increased fares the city has now acquired about $1,261,000 worth of common stock which is of doubtful value, especially as the company appears to be overvalued and the opportunity of the city purchasing the remaining capital value seems quite remote. If at any time a question is raised as to the overvaluation of the company, a reduction of the capital value will probably affect the holders of common stock first.

6. There is provided an amortization fund which becomes operative whenever the term of the franchise is less than fifteen years. When this fund becomes operative, the fares must be increased to a rate high enough to permit the company to amortize all outstanding bonds and stocks by the time the franchise terminates. The property of the company will then be vested in the city.

7. Service is controlled by the city council, supposedly acting under the advise of a street car commissioner selected by the mayor and a board of control composed of three persons selected by the mayor for six year terms.

It was assumed that when the franchise became operative in 1921 that the city council would prohibit motor busses from carrying city passengers. But council for this reason or that, has up to this day failed to take such action. Motor busses are permitted to run over the city streets without the payment of a license fee or any regulation by the city relative to service, fare and equipment. It is estimated that the street car company has lost between $200,000 and $300,000 each year through motor bus competition.

As stated before, the private automobile has been the chief cause for the decrease in street car patronage. In 1920 there was one car for every eleven persons in Toledo; in 1926, one for every five.

IMPROPER ROUTING HAS BEEN COSTLY

Motor bus competition and use of private machines might have caused less damage if the street car lines had been properly routed. In one section of the city when the franchise became effective, there were three paralleling lines in a territory less than a quarter of a mile in width. The longest of these lines runs along the river and consequently secures patronage from only one side of the line. One of these three

lines has already been torn up, but the two remaining lines are more than is necessary for good service. One of them located in the center of the district would be sufficient. Other superfluous lines are still in operation.

Inability of the company to supply service has caused widespread complaint. Inability of the company to finance reconstruction of road beds and to purchase new rails has made at least 25 per cent of the streets of the city upon which street car lines are located "rocky roads to Dublin." The city cannot go ahead with the paving of these streets until the street car company is able or willing to finance its part of the cost. As a matter of fact, the residents along one line pushed a resolution through council to have the tracks torn up, the street paved and motor bus service operated by the car company substituted. In passing it might be of interest to mention that the depreciation fund was not large enough to make it possible for the company to substitute motor busses for the rails and street cars used upon this line. It has, instead, leased the busses.

The residents along other lines are contemplating similar action in respect to paving of streets and transit service.

$800,000 DEFICIT IN STABILIZING FUND

Even with economies effected by way of one-man cars for certain lines, elimination of three unprofitable lines and reduction in the price paid by the company for electric current, the stabilizing fund has steadily decreased until it now has a deficit of approximately $800,000 or $1,100,000 below the minimum provided in the franchise. No dividends have been paid upon the preferred stock of the company since 1924. Though the franchise provides that the rate of fare shall be increased when the stabilizing fund is reduced to $300,000, this has not been done. The company realizes that the car riding public will not ride if the fare goes any higher.

Therefore, the officials of the company are as willing as the car riders to have the franchise altered. The question is, "What terms shall be altered?"

A NEW FRANCHISE OFFERS COMPLETE MONOPOLY

To attack the whole transit problem in what seems to be the only logical way, the city council early in 1925 employed Henry E. Riggs, well-known transportation expert of Michigan University. Mr. Riggs and his assistants made a very thorough study of the numerous factors affecting local transit and submitted a very comprehensive report. Later he made a supplemental report stating what he thought should be included in the new agreement. This report was submitted in May, 1926.

Representatives of the city and the company then held numerous conferences, for the purpose of changing the present franchise to meet the requirements of the Riggs' reports. The city secured the services of Newton Baker, former secretary of war, and experienced in service-at-cost transit operation in Cleveland, to check the new draft for the purpose of ascertaining whether or not it met the Riggs' requirements. Mr. Baker also suggested certain additional changes.

The proposed franchise, which is to run for twenty-five years, was submitted to the city council in September, 1926. While it contains many of the provisions of the present franchise, many new provisions make it practically a new contract. Under the new terms, the street car company would be given an exclusive grant to operate all public transit vehicles upon the streets of Toledo, taxicabs, sight-

seeing busses and interurban busses excepted. In other words the company would be given a monopoly of the public transit business. It seems to be the consensus of opinion that unless the company is so empowered it will be impossible to keep the fares, under a service-at-cost system, at a low and reasonable rate. Opponents of the new proposal point to the fact that under the present franchise bus competition can be eliminated by council. But as council up to this time has failed to take such a step, proponents maintain that the power to permit other modes of street transit should be taken away from that body.

In order to give the street car company a monopoly of the street transit business, it would be necessary to amend the city charter. The city charter can only be amended by vote of the people. All public utility franchises must also be acted upon by the electorate. In order to make it possible to vote for both the charter amendments and the proposed franchise at the same time, the entire proposed franchise as now planned constitutes a charter amendment which is almost as long as the existing charter itself.

The new proposal provides for the enlargement of the depreciation fund so that all street car equipment can be replaced in twenty to twenty-five years. Another provision is a motor bus depreciation fund to which would be paid annually an amount equal to 20 per cent of the capital value of the company represented by securities issued to buy motor bus equipment.

By increasing the depreciation fund and providing that no money shall be paid into the sinking fund until the depreciation fund is at its effective maximum, the new franchise practically precludes the payment of any more money into the sinking or city ownership fund. Interest paid upon the redeemed bonds, representing the common stock owned by the city, will not be paid into the sinking fund as the present franchise provides, unless the stabilizing fund contains its minimum amount. These two provisions mean that the city would probably not receive any more stock in the company. Or in other words, that portion of the car fare used to help buy the street car system for the city would be used to enlarge the depreciation fund and to help pay the stipulated return to the company through the stabilizing fund.

The amortization fund provisions of the new proposal are the same as in the present franchise.

Service under the proposal would be controlled not by council but by the Board of Control which would be made a charter agency. One concession which the company would make under the new proposal would be the selling of preferred stock for financing betterments at a lower rate of interest than 8 per cent, as the present franchise provides. The company under the new proposal would also agree to furnish the necessary capital to rehabilitate and to reroute the street car lines according to the recommendations of Mr. Riggs.

OPPOSITION HAS DEVELOPED

The chief objection against the franchise seems to be the charge of over-valuation, the former valuation of $8,000,000 being retained in the new draft. The board of control, which under the new terms would be given considerably more power over the transit system, criticizes the proposal. That board holds that if the company is to be given a monopoly, it should decrease its capital value to an amount equal to the present value of the system. There are no provisions in the new proposal relating to a decrease in capitalization for removals when the depreciation fund is not sufficient to

take care of the substitution of the removed equipment. Since the present franchise became effective, ten or twelve miles of the track valued at about $70,000 a mile have been taken up. But the capital value of the company has not been decreased so that the company still draws 6 per cent interest on the capital value represented in these tracks.

Under the new proposal the street car company would be relieved of maintaining that portion of the street paving between and adjacent to car tracks. The question of whether the city or the car company shall pay for such maintenance is being contested in a number of cities. Strong opposition to this concession is being voiced in Toledo, especially as many streets upon which tracks are located are much in need of repair, to say the least. Concession is also granted to the company in that the city will pay for the entire foundation for tracks in case a street is repaved. As a matter of fact under a service-at-cost system, these concessions are not to the company, but to the car riders. The burden to the tax paying public for maintaining and paving streets would naturally increase.

Whether the new proposal is the best that can be obtained, whether other changes should be made to affect economy in the operation of the transit system are, of course, causing much concern in Toledo. In this transitory period in the field of public transit any kind of an agreement is certain to be pretty much of a jump into the dark. If only some prophet would appear to advise the proper course, the city of Toledo would be in a much better position to predict the fate of its present ten-cent car fare.

NOTE.—For a detailed and comprehensive analysis of the street car situation in Toledo, send to the Commission of Publicity and Efficiency, 107 Safety Building, Toledo, Ohio, for copies of the Riggs Transit Reports. A copy of the proposed franchise may also be obtained from the office of the commission.

THE BICAMERAL PRINCIPLE IN THE NEW MEXICO LEGISLATURE OF 1925

BY JOHN E. HALL
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The final installment of an article begun in the last issue is a further indictment of the bicameral principle as practised in our state legislatures. :: :: :: :: :: :: :: :: ::

The second argument in support of bicameralism is that the second chamber acts as a check upon hasty and ill-considered legislation. To what extent, if at all, does the history of the New Mexico legislature of 1925 sustain this contention?

The value of the house as a check upon the legislation of the senate will be considered first. Ninety bills passed the senate and went to the house. Sixteen of the ninety, or 18 per cent, were pigeonholed in the committees; two were defeated on roll-call in the house; two were killed by unfavorable reports of house committees; and five died on the clerk's desk due to non-action on the part of the house. Thus,

twenty-five senate bills, or 27 per cent, were discarded, and sixty-five were passed, by the house.

Although this percentage of senate bills dying in the house may seem large, it is not the best criterion of the value of the house as a checking agency, for it is only a quantitative rather than a qualitative test. A truer indication of the worth of the second chamber as a checking agency is afforded by an examination of the nature and importance of the senate bills which thus expired in the house. None of the sixteen bills dying in the house committees was of major importance; three of them were duplicate bills, *i.e.*, had been introduced in both chambers; four of them related to details which had already been incorporated in more amplified codes. For instance, senate bill 99 regulated the election of school directors in municipalities, a matter which had been covered by the complete school code enacted earlier in the session. The remaining bills, such as licensing of cotton ginners, and a bill amending existing mechanics lien law were of small importance. On the other hand, not a single senate bill of major importance was killed by the house.

But how did the lower chamber function as a preventive of hasty and ill-considered legislation? This can be seen from the following incidents. On the last day of the session, three bills, numbers 136, 137, 138, were introduced in the senate by unanimous consent. One was a bill for the construction of a state highway, another provided for the filing of oil and gas leases in the State Land Office, and the third proposed to amend the existing statute on municipal corporations. These bills were not referred to committees in accordance with the regular procedure; instead, the rules were suspended and a roll-call was ordered, and each bill passed by a unanimous vote. The bills were immediately sent to the house where the same procedure was gone through; the bills were given no committee considerations, and no amendments were proposed in either chamber. Two of the three passed the house unanimously, and the third bill received only two negative votes. Thus, three senate bills were introduced, considered and passed, enrolled and engrossed, and signed by the presiding officers of each chamber within the short space of four or five hours. Moreover, they were passed in complete disregard of clear and definite constitutional provisions requiring such bills to be "read three different times in each house, not more than two of which readings shall be on the same day, and the third reading of which shall be in full."[1] If collusive disregard of constitutional requirements could exist between two chambers controlled by opposite political parties and torn by the animosities and hatreds engendered in the first half of the session, what sort of a check is the second chamber likely to offer under normal conditions when both houses are controlled by the same party?

But these were not the only instances of hasty and unconstitutional action by one chamber or the lack of scrutiny and the exercise of any real check by the second chamber. In addition to the bills just considered, there were nine other senate bills which were similarly railroaded through the senate; and seven of these bills were of major importance. Senate bills 16, 60, 94, and 131 carried appropriations for irrigation purposes amounting to $55,000. Number 103 carried an appropriation of $65,000 for the State Blind Institute; number 127 levied an excise tax of three cents on each gallon of gasoline sold in the state; number 112 was a complete and detailed child-labor law; number 108 amended the

[1] Art. IV, sec. 15.

criminal code; and number 126 authorized the county commissioners of the various counties to levy taxes for road and bridge construction and maintenance. In the senate, when these nine bills were reported by the committees, the rules were immediately suspended and a vote was taken on each of them. They all passed by a unanimous vote except the child-labor bill, which had one negative vote. By this hasty and unconstitutional action, ordinary members of the senate were denied the opportunity to study these measures in order to vote intelligently upon them. All the greater need, therefore, that the house should proceed with due deliberation.

Eight of these nine bills were favorably reported by house committees. The other bill was pigeonholed in committee, and it was the only one of the group checked by the house. Of the remaining eight, only one was amended by the house. Five of the eight passed the house by unanimous votes, while two of them had only one negative vote each. All eight of them were signed by the governor and are now on the statute books. Space will not permit an enumeration of the many other bills which were passed under similar circumstances. It seems clear, however, from these instances that a second chamber can not always be depended upon to exercise that careful scrutiny of the work of the other chamber upon which defenders of bicameralism have laid so much stress.

DOES SENATE CHECK LOWER HOUSE?

Let us now focus our inquiry upon the senate and see how it functioned as a check upon the legislation of the house. The house passed 177 out of 249 bills introduced. The senate was slow in getting down to work on the house bills, passing only two the first thirty days of the session. These were the routine bills providing for mileage and per diem for the members of the legislature and to provide postage and printing for both chambers. In the last half of the session, the senate passed 96 house bills, making a total of 98 house bills for the session, or 55 per cent of the bills which came to it from the house. On a quantitative basis the senate seems to have been an effective check upon the work of the lower house, refusing to enact 79, or 45 per cent, of the house bills coming to it for acceptance or rejection. By thus preventing the passage of 45 per cent of the house bills, in comparison with 38 per cent of the senate bills checked by the house, the upper chamber showed a decided superiority over the lower chamber as a checking agency.

The foregoing figures, however, do not, by themselves, warrant the conclusion that the second chamber rendered the state of New Mexico an invaluable service, unless it is assumed that all, or a majority of these measures were vicious, or, at all events, were unwise from the standpoint of sound public policy. The writer knows that several of these bills merited that description, but the majority could not fairly be so characterized. On the other hand, the circumstances surrounding the passage of not a few of these bills through the lower house, and the counter interests and motives which influenced the action of the senate in killing them, indicate that the service rendered by that chamber fell far short of being as important as might be inferred from the mere number of house bills defeated. Furthermore, these facts bring out certain other fundamental defects in the bicameral system.

"GRAND STAND" BILLS

The very abnormality of the political relationships between the two chambers

produced a situation which encouraged the introduction of many bills in the house, the authors knowing at the time of their introduction that they would not pass the senate. Frequently bills were introduced in the house that were mere political gestures, or were designed to provide a little "grand-stand" play for the benefit of the home-folk. Each chamber proposed many bills of this nature, for each knew that the other chamber would check them and get the blame. There was a great deal of this "passing the buck," and each chamber pointed an accusing finger at the other body, charging it with obstructing much needed legislation.

The writer knows of several bills that were unwise and undesirable that were passed by the house for political reasons, and left on the door-step of the senate. The senate would either have to take the blame for passing them or shift them back upon the house. House bill number 66 will illustrate this point. It was a bill appropriating money to establish an experiment farm in Union county. Members of the committee on agriculture told the writer that they were opposed to the bill, but would report it favorably and work for its passage to please the representative from that county and his constituents. It was passed and the senate killed it. Space will not permit a study of several other bills that were passed by the house for similar reasons and with the same results.

But this sort of thing is by no means peculiar to New Mexico. A two-chamber legislature always facilitates, if it does not actually encourage, a shifting of responsibility for the bad bills passed and the good bills defeated. The senate charges the house with obstructing desired legislation, and vice versa. Upon which group will the constituents place the responsibility? The farmer in Union county may praise his representative for proposing an experiment farm bill, and condemn the senate for killing it, when, as a matter of fact, the representative himself may have been opposed to the bill and may have betrayed his constituents by framing a bill so defective as to insure its easy defeat in the other chamber. Under such circumstances, senators and representatives cannot be held to strict accountability, for the bicameral system enables them to pass responsibility back and forth like a medicine ball in a "gym" class.

UNICAMERAL BODY MUST ASSUME FULL RESPONSIBILITY

Under a unicameral system, on the other hand, responsibility could not thus be shifted and evaded. The attention of the electorate would be focused upon a single body. Absurd and careless bills, bills to provide political ammunition for coming elections, and many other types of undesirable legislation would not be passed with such nonchalance when the legislative body knows that its action is final and that there is no second chamber upon which to shift responsibility.

There is another question connected with the bicameral system that must be answered: may not two chambers facilitate the defeat of meritorious legislation quite as effectively as they seem to facilitate the elimination of undesirable legislation? Ample material for an affirmative answer is supplied by events in the New Mexico legislature now under consideration. Space, however, permits the citation of only a few examples—first, election reform. New Mexico is encumbered with an awkward, ineffective and wholly inadequate election law, and every election brings a bumper crop of contest cases. After the 1924 elections, there were

seven seats in the house contested and four in the senate. The governorship was also contested, and ex-Senator Bursum filed contest notice against Senator Sam G. Bratton in the United States senate. This state of affairs, due to the lax election laws, was indefensible and intolerable. The platforms of both major parties pledged their legislative candidates to the passage of "election reform" laws, and public sentiment was state-wide in favor of this reform. How did the bicameral legislature respond to this demand for legislation?

Five different bills relating to election reform were introduced. House bill 69 and senate bill 10 both provided for the direct primary for the nomination of state officials. Senate bill 92 was a corrupt practices act, and senate bill 122 was a complete election code. But probably the most detailed and complete election bill introduced was house bill 179. This bill was drafted with the aid of legal experts, parts of it being copied from the laws of Wisconsin, Kansas, and Ohio. It was passed by the house and went to the senate, where it was referred to the steering committee and was not heard of thereafter. Senate bill 10 did not reach the floor of the senate, for it, too, was smothered in committee; and senate bill 92 met a similar fate in the senate judiciary committee. But house bill 69 passed the house and in the senate was referred to the steering committee, where it was buried beyond resurrection. Thus far, four out of the five bills introduced had been killed in senate committees without giving the members of the senate a chance to vote upon them.

On the last day of the session, the majority floorleader in the senate, fearing the condemnation that would fall upon his party if the session should adjourn without a vote upon an election law, called senate bill 122 out of the committee. The roll-call was ordered, whereupon a minority member immediately moved to call house bill 69 out of the steering committee, and to substitute it for senate bill 122. The motion was lost, however, and senate bill 122 was passed by a strict party vote. It was sent to the house an hour before final adjournment. Political expediency again reared its head. The Democratic house felt that the Republican senate bill did not meet all the requirements, and by a strictly partisan vote amended the bill by striking out all after the enacting clause and inserting a copy of house bill 179, which had already been stifled in the senate steering committee. In this amended form, senate bill 122 was returned to the senate where it died on the clerk's desk. The legislature adjourned without enacting any of the election reforms which had been demanded by the people, and had been promised by the legislators. The jealousies between the two chambers defeated the bills: the Democratic house was jealous of the prestige that would come to the Republican senate with the passage of an election law originating in that body, and vice versa.

PLEDGES BY BOTH PARTIES NOT FULFILLED

The manner in which the legislature handled the ratification of the federal Child Labor Amendment also throws some interesting light upon the second chamber as an agency of obstruction of desirable acts. The writer feels safe in saying that the people of the state, on the whole, favored ratification. The Democratic state platform in 1924 contained this plank:

> We pledge Democratic members of the legislature to the ratification of the Constitutional Amendment.

The Republican platform contained this statement:

> We are heartily in favor of the proposed Child Labor Amendment submitted to the states by Congress and pledge the Republican members of the next legislature to its approval and ratification.

The governor, in a special message, also appealed for its ratification. House resolution 4, ratifying the Amendment, passed that body and was referred to the steering committee in the senate, where it died. A majority member of the senate introduced a resolution submitting the question of ratification to the people for their own expression at the polls. It passed the senate, but was killed in a house committee. Here, again, the shifting of responsibility to, and the obstruction of, the second chamber resulted in defeating a desirable end.

Let us consider another example. Lax banking laws, together with an abnormal economic situation in 1922, had caused much distress in the state. The banks were loaded with huge frozen assets, and over half of them failed in that year. Many of the failures were traceable to the inefficient and careless administration of funds. Speculation by bank officials with the depositors' money was made possible by the lax banking laws. Public sentiment demanded a law that should prohibit banks from making heavy loans of a certain type for speculative purposes, and which, in other ways would give greater protection to the depositors. House bill 79 was a complete banking code. It was drafted with the aid of Judge Wright, counsel for the bankers of the state. The bill was acclaimed on all sides as judicious and desirable. It passed the house, but the senate made such drastic amendments that the house would not concur in them; and as the senate had amended it on the second day before adjournment, there was no time for conferences between the two chambers, and so the bill died on the clerk's desk in the senate.

Thus, in at least three types of important legislation, backed by a strong popular demand, the second chamber succeeded in obstructing the enactment of much-needed reforms. The same obstructing tactics were employed by the second chamber in many other instances, but space will not permit specific mention of them here. Enough has been said to demonstrate the power of the second chamber to obstruct meritorious legislation. After this examination of concrete examples, no one should be misled by the large percentage of house bills killed by the senate. The forty-five per cent clearly exaggerates the real worth of the second chamber as a checking agency.

And in addition to the large number checked by the second chamber, the governor was compelled to veto seventeen bills, or a fraction over 10 per cent of the total number of bills passed by both houses. This would further indicate that, after all, the second chamber failed adequately to scrutinize, revise, and check the work of the other chamber.

As a result of his personal observation, the writer firmly believes that the bicameral system is a relic of less progressive days. At any rate, the history of the last New Mexico legislature appears to justify the conclusion that a two-chambered legislature is unwieldy, expensive, irresponsible, and inefficient.

RECENT BOOKS REVIEWED

THE GOVERNMENT OF AMERICAN CITIES. By William Bennett Munro. New York: The Macmillan Company, 1926. (Fourth Edition.) Pp. 491.

Professor Munro, in the preface of the fourth edition of his college text, *The Government of American Cities*, claims that the text has been completely revised and rewritten, with the addition of several new chapters, charts and diagrams, and that "the book is virtually a new one especially in its point of view." The use of the book as a classroom text for a semester convinces the reviewer that the author's claim is not in the main an overstatement. The added chapters, more fully than the re-written chapters from the earlier edition, set forth the author's new points of view. In the earlier editions he confined himself largely to the description of the organization of city government and to an explanation of how it works. If new devices were appraised, their advantages and disadvantages were so judicially weighed and balanced that the author rarely could be quoted as favoring or opposing their adoption or rejection.

The author's opinions and advice are offered much more freely in the new chapters, especially in the chapters on "Practical Politics," "City Government as a Business," and "The Criteria of Good City Government." The author, however, in this edition as in the earlier, steers clear of the controversial, social and economic problems of the city which have enlisted the attention of some of the more daring among the recent municipal textbook writers.

A noteworthy addition to the text is the chapter on "Urban Public Opinion," which served to whet the appetite of my students for further reading in special works on the subject by such authors as Lowell, Holcombe and Lippman. The somewhat pessimistic frame of mind in which the chapter left the students has been sufficiently relieved by the wider reading.

The most important contribution to the study of municipal government, in the opinion of the reviewer, is the chapter on "The Criteria of Good City Government." "A suggested series of twenty-five tests" is offered "as an aid to the citizen's survey of his own government." The chapter might well be reprinted in pamphlet form and distributed by civic organizations among their members interested in good city government. It is interesting to note that in these tests emphasis is placed upon business problems and methods rather than upon forms of government and the political aspect of municipal government.

The author's "newer points of view," arrived at from a study of post-war conditions, in the main, seem to be sound. However, the author's change in point of view regarding "property and conservatism" (third edition, p. 48; fourth edition, pp. 64–65) seemed to the reviewer not to be based upon correct interpretation of facts. To refute the author's earlier view that propertyless city dwellers are likely to be radically-minded while the property-owning rural inhabitants are prone to be conservative requires more proof than citing the fact that political innovations such as the initiative, referendum, recall, direct primary, proportional representation, etc., etc., came "out of the West." These innovations, in the main, had to do with political democracy or the liberalizing and greater democratization of the machinery of government, while "radicalism" in its properly accepted sense, the radicalism which has arrived in Europe and promises to demand a hearing in America, attacks the fundamental basis of the capitalistic social order—private ownership of property. Such radicalism thrives in the industrial urban centers, while the rural communities furnish the greatest conservative force in opposition. Moreover, it is noteworthy that not only has the strength of the socialist party been in the urban centers, but also a remarkably large proportion of the Lafollette vote in 1924 came from the large cities.

The edition under review shows a marked improvement both in logical arrangement and in the allotment of space to the several subjects. At the same time it retains the clearness of style and the interest-claiming narration which, in the earlier editions, aroused an interest in city government among so many students in American colleges.

ORREN C. HORMELL.

Bowdoin College.

MUNICIPAL FINANCE. By A. E. Buck, in collaboration with other staff members of the National Institute of Public Administration and the New York Bureau of Municipal Research. New York: The MacMillan Company, 1926. Pp. xii, 562.

The announcement of a book on the subject of municipal finance, under the distinguished auspices of the National Institute of Public Administration and the New York Bureau of Municipal Research, unquestionably stimulated the keenest anticipations among all who have been familiar with the achievements and the earlier publications of these organizations and of their various staff members. This book justifies these anticipations, for it is an interesting and fruitful venture into a hitherto undeveloped field of public finance, a field which the authors make bold to characterize as a science—the science of Municipal Finance.

Without debating the propriety of this rather ambitious label, it is admitted that the present volume is a path-breaking achievement. While it is a product of some years of experience with and study of municipal financial systems, good, bad and indifferent, it goes far beyond the scope of any previous publications in the comprehensiveness with which the field of municipal finance is marked out, and in the thoroughness with which many parts of this field are cultivated. Such defects as it displays are, in the main, those of the pioneer work, and are quite overshadowed by the value of the contributions made.

While much of the book will be of general interest, the readers who will gain most from it, probably, will be those who, as officers of municipalities, are responsible for the actual financial management of municipal activities. For such it will prove a well-nigh indispensable companion. It is a preëminently practical work, in which the instructions on such matters as organizing a municipal department of finance, preparing a budget, auditing financial records, purchasing supplies, assessing property, distributing the burden of special assessments and managing public debts are set forth in detail, with appropriate record forms, and ample references to current practice. The rapid development of large urban centers and the enormous increase of municipal expenditures alike demand a new administrative and financial technique. This book is designed to bring to municipal administrators the latest and best facilities and devices, and to give them, in addition, the groundwork of a broad conception of the scope of municipal finances as a whole. These aims, and especially the latter, are admirably accomplished.

The treatment of topics is of uneven value, a rather natural result of the collaboration of five authors. Of least importance, in the reviewer's judgment, are the chapters on General Accounting and Cost Accounting. Accounting technique is a subject which should be treated thoroughly or not at all. The discussion of general accounting in Chapter V is too elementary to be of value to the accountant, while it is too greatly condensed and too sketchy to have much meaning for those not trained in the subject. The reviewer is rather dubious of the utility of municipal cost accounting in general, although some advantages are perceived in the case of the publicly-owned commercial enterprises.

It is disappointing, also, to find the authors rather carefully and obviously avoiding an expression of opinion on various debatable topics which arise. The wide experience of the organizations sponsoring the publication should have developed definite views on some of these matters, and it seems unfortunate that the present opportunity for giving others the benefit of their findings was passed by. Illustrations of such questions are the assessment of property by municipal or by county officials (p. 23), the separate administration of school finances (pp. 29–30), and the taxation of municipally-owned utilities (p. 533). The pros and cons are usually carefully stated, as is proper; but the reviewer would have welcomed, in addition, some indication of the conclusion which appeared to be warranted by the weight of experience and evidence, in these and in other cases.

H. L. LUTZ.

Stanford University.

STATE GOVERNMENT IN THE UNITED STATES. Revised edition. By Arthur N. Holcombe. New York: The Macmillan Company, 1926. Pp. xx, 629.

This second edition of a standard text by Professor Holcombe, first published in 1916, is now presented, revised and enlarged with the collaboration of Roger H. Wells, assistant professor of politics in Bryn Mawr College.

The original text has been enlarged by more than one hundred pages including two new chap-

ters. Newer developments in state government during the last ten years—woman suffrage, electoral changes, improvements in the organization and procedure of the legislature, administrative reorganization, and budget and fiscal reform—are given increased attention.

Part One analyzes the relation between the Union and the states with attention to the newer problems of federal and state relations. In Part Two several historical chapters discuss the original principles of state government, the original forms of state government, and their development to meet changing conditions. The author maintains his original view that two main tendencies have characterized the evolution of state government; first, the broadening of the electorate and the strengthening of its control over the three branches of the government; and second, the more effective distribution of powers between the legislative, executive, and judicial departments.

An analysis of the working of the present state governments is presented in Part Three. In the first edition approximately equal space was devoted to the extent and methods of popular control and the organization of the government and division of powers. In the present edition the space devoted to the electorate, the political party, the electoral process, and direct legislation remains practically the same as in the earlier edition, while that given to the organization and work of the state legislature, executive, administration, judiciary, and constitutional convention, has been substantially increased, principally by the expansion into complete chapters of the material on state administration and judicial review of legislation and administration.

In the conclusion, Part Four, consideration is given to the problem of the further reform of state government. Older projects of reform are omitted and attention is turned to a critical analysis of the most comprehensive of the contemporary plans for the reform of state government—the proposed Model State Constitution of the National Municipal League. Innovations found in the Model State Constitution are shown to be consistent with the original principles of state government and clearly in line with the tendencies toward a greater popular control and a more effective distribution of powers.

The author's conclusion of the first edition, still unchanged, is that future reform must proceed substantially along the same lines as in the past. More complete popular control of government must be brought about through the simplification of the existing forms of government. The principle of the separation of powers should not be abandoned, but more rationally applied by the imposition of additional checks upon the authority of the legislature and the further strengthening of the executive and judiciary.

One criticism of the first edition has not been remedied, the omission of any treatment of county and local government. However, this is an excellent revision of a significant contribution to the literature of state government, combining as it does a study of the philosophy of American state government with a description and appraisal of its practical operation.

Frank M. Stewart.
University of Texas.

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The Dublin Civic Survey. Prepared by Horace T. O'Rourke, F.R.I.A.I., and the Dublin Civic Survey Committee for the Civics Institute of Ireland. 150 pp. (10 x 12½), 50 illustrations, 10 colored maps, and 8 aërial photographs. University Press of Liverpool, Ltd.; Hodder and Stoughton, Ltd., London, 1925.

This is Volume Two of the publications of the Civic Institute of Ireland. Volume One was the prize design adjudged winner in an international competition. Volume Three will be the Final Town Plan based on the design and the survey.

Few American readers interested in city and town planning will see, but all should examine, this excellent example of the most scientific type of survey upon which a final town plan will be based. This survey is the statistical and graphical representation of the things as they are in the community and enables the town planner to present a forecast of its development. The survey is divided into the physical and social and economic factors in the life of Dublin. This city has the position of dual rôle as the national capital and seat of government, as the principal railroad center and port of the country, and as the cultural and recreational center of its people.

The plan of the survey follows a definite study in seven fields: Archaeology, showing the historical development and its influences: Recreation; Education; Hygiene; Housing; Industry and Commerce; Traffic of all sorts. The student of city planning will be especially interested and pleased with the colored maps which illustrate each of the topics covered. The aërial photo-

graphs prove beyond doubt the value of this method of study for advanced planning. The use of early maps from 1610 emphasize more than any reading matter how it is that towns and cities are allowed to grow in a haphazard manner. The survey states that all the difficulties and costliness of civic administration can be ascribed to such blind and wasteful development. The preparation of such a civic survey for a community is the best education it can have. It is not every city that can be a Washington or a Canberra, and the best many can do is to show the defects of the past and prevent the mistakes being repeated in the future.

An ever increasing number of town surveys and plans are reaching us from the British Isles. Others which are worthy of interest for their contents and mechanical makeup are Birmingham, Manchester, Dundee, Leicester, Sheffield, Doncaster, York, Richmond, Woolwich, Chelsea, Stratford-on-Avon, Cork, and more recently the comprehensive study of the London County Council.

E. A. Cottrell.

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Congress — An Explanation. By Robert Luce. Cambridge: Harvard University Press, 1926. Pp. 154.

The author of this sprightly little *apologia* is a well-known Massachusetts congressman, already the author of two formidable works on legislative bodies, and a veteran of many years in the service of the state of Massachusetts. Mr. Luce realizes that he is on the defensive. The typical congressman, he admits, is the butt of ridicule, and the serious work of the House is ignored by public and press. Frankly conceding that the lower branch is far from perfect, he nevertheless finds substantial reasons for some generally criticized features. Thus the House is too large, private legislation has become a lottery, committee work is poorly distributed. The weaknesses of the seniority method of committee allotments is recognized, but attention is called to another side which many legislative reformers have overlookd but which anyone experienced in managing a sizeable business will appreciate. Promotions on merit irrespective of experience (if such a thing is possible in any organization) may disturb morale more than promotions on a straight seniority basis. Peace and harmony are desirable, if the price be not too great, and within certain limits the seniority principle in a legislative body is sound.

When it comes to discussing the budget system, Mr. Luce is fresh and unorthodox. He says that he believes in the budget system in spite of the arguments advanced in its behalf, and then proceeds to demolish these arguments. It must be said, however, that the arguments which he has selected for destruction are from those used by early budget propagandists and are stated in most extreme form. While no system could possibly accomplish all that early advocates claimed for the budget, it is difficult to understand how the reform in financial procedure which Mr. Luce freely credits to Congress, could have been attained without it.

And in this connection it seems to the reviewer that the author's sometimes too idealistic view of Congress falls of its own instability. Nine-tenths of the work of Congress has to do with raising and spending money is the statement on page 64. On page 79, it is stated that the budget document has no practical value to the mass of legislators. They hoist the thing to the top shelf and then forget it. If 90 per cent of the work of Congress relates to finance and if the typical congressman never looks at the book of estimates, what in God's name does he do? Mr. Luce says he is very busy, but busy at what?

The truth, which the author sees as clearly as anyone, is that the size of the House of Representatives, and the vast field of legislation which it will not surrender, have compelled it to organize for efficiency in grinding out legislation. As a machine it works all right, but no machine can command personal respect. For this reason the public interest has turned to the Senate, and a congressman can get attention only by making a fool of himself. This miserable state, the reviewer in company with Mr. Luce, bemoans.

H. W. D.

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Report to Governor and Legislature on Problem of Government for Portland Metropolitan Region by Commission Authorized by Chapter 217, Laws of 1925.—Portland, like Vancouver and Quebec, has apparently decided that it will not become a metropolis which, like "Topsy," "just growed," if forehanded study and planning will help. The studies upon which this report is based were privately financed and had to be limited both in scope and time. They have revealed enough, however, to warrant the committee, in charge of making them, in asking for important legislative and constitutional changes to permit structural changes in the gov-

ernmental machinery of city and county and for a grant of public funds to permit these studies to be completed.

It may seem overweening that a city the size of Portland, with a population of only 258,000 itself and with only 400,000 in what it claims for a metropolitan region, is studying the problems of governing a metropolis. Yet, if Boston, Chicago, Detroit, Pittsburgh and other cities, had been equally ambitious, optimistic and foresighted, they probably would not be in such a morass of complicated problems, which, for lack of prompt solution, are greatly retarding their progress.

This report does show that the Portland region has problems similar to those of our great metropolitan cities in police and fire protection, water supply, sewerage, regional planning and housing. It is aware of them, and it is to be hoped that being aware of them, it can solve them not only before they become acute, but even without enormous trouble and expense in correcting early mistakes.

GEORGE H. MCCAFFREY.

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The Need for Constitutional Revision in Minnesota by William Anderson is reprinted from the *Minnesota Law Review*. It is doubtful whether anyone who is at all familiar with the Minnesota constitution would dispute the need for its extensive revision. That this can best be accomplished by the calling of a constitutional convention would probably not be as widely admitted although this step has been suggested.

In a careful analysis of the various phases of the problem Dr. Anderson has pointed out needed changes for executive, legislative and judicial departments as well as improvements necessary in state finances, local government and other miscellaneous provisions. He notes three possible ways of revising the constitution, but comes to the conclusion that "a constitutional convention is the one method by which a complete revision of the constitution can be brought about at one time." He adds, however, that it may be necessary to first amend the convention section to simplify the present procedure which makes the calling of such a convention next to impossible.

E. C.

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The Proceedings of the Nineteenth Annual Meeting of the Assembly of Civil Service Commissions, September 13–17, 1926, comprise a pamphlet of 161 pages. The various reports contain practical suggestions of special value to those engaged in the actual administration of civil service principles. Appendix four is a civil service map showing governmental units in the United States and Canada operating under civil service laws. Although compiled in 1923, it is useful nevertheless.

E. C.

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The Playground and Recreation Association of America has recently published a reprint from the *Playground on Stadiums*. The constantly increasing interest in athletics in municipalities as well as in universities and high schools is shown by the very complete and valuable table that comprises most of the pamphlet. The pertinent facts necessary in the erection and maintenance of stadiums are tabulated in sufficient detail to make the pamphlet most useful to those considering the erection of such a building.

E. C.

PUBLIC UTILITIES

EDITED BY JOHN BAUER[1]

PUBLIC UTILITY COMMON STOCK—CAN WE DO BETTER?

By an Anonymous Contributor

The present difficulties in the regulation of public utilities from the standpoint of the public, the utilities, and the commissions have been pointed out many times. May it not be worth while to consider a different form of financial structure and compare the difficulties it would involve with those from which we now suffer.

Suppose we permit the utility companies to issue common stock without par value, the dividend on which shall be limited by law to $8.00 (not 8%) per share per year, stock dividends being prohibited, and provide further by law that the commissions shall permit the utility companies to charge rates which will allow them to earn this dividend if they can. Whether the dividend were limited to $4.00 per share or $8.00 per share or any other figure would make no difference in the theory of the plan. What figure should be adopted is simply a question of what price range is desirable for the stock of a utility company. The price at which stock should be issued would also have to be approved by the commission and the proceeds should be used only for capital.

NO NECESSITY FOR VALUATION

The primary advantage of such a plan is that it would eliminate completely all necessity for valuation. In a rate case before a commission it would only be necessary to consider whether the rate in question was properly balanced as between the different classes of service, to estimate the probable effect of a rate change on gross income and volume of business, and compare the resultant net income with the dividend requirement. The determination of the effect on income of a proposed rate change is by no means an exact science, but this difficulty would be no greater and no less under the proposed plan than under the present system.

If a utility company accumulates a surplus above its dividend requirements and this is invested in additions to plant the public shares in the benefit and runs no risk of such additions being made, in the courts, a basis for higher rates. Such a surplus will also improve the quality of the security and make the stock sell at a higher price.

If a company needs to sell additional stock to enlarge its plant the commission will have to decide whether in its judgment the price suggested by the company is reasonable, in view of the market price of the existing stock and the general state of the money market. In some states the commissions already have to make this decision.

One objection which will be raised is that we will lose the incentive to efficient management which has been furnished by the possibility of an occasional extra dividend or a higher regular dividend rate. This matter of efficiency is highly important and must be considered from all points of view.

The direct cost of litigation and valuation are considerable. The indirect cost due to the best brains in the management being devoted to these non-productive issues instead of to the real work of the business is also considerable. The proposed plan would not only save the out of pocket expenses for legal fees, accountants' fees and experts' fees,[2] but would enable the management to concentrate on production, distribution and service. This is bound to make for higher efficiency.

LESS INTERFERENCE IN MANAGEMENT

Furthermore the legal limitation of dividends will mean less interference in management by the speculative-banker-director and more power to the engineer. Any engineer who is worth his salt will choose to do an efficient job rather than an inefficient one just as a matter of maintaining his own self-respect.

It is also true that the active managers of some of the best managed public utilities in the coun-

[1] Director, American Public Utilities Bureau, 280 Broadway, New York.

[2] The accountant is the man who finds the 2 and 2 that make 4; the expert is the man who makes 2 and 2 look like 5 or even 6.

try own little or none of the stock of the companies they manage. These men and men like them are not going to drop their standards because the stock of their companies has been put on a more stable and less speculative basis.

The possibility of increased dividends is not the only incentive to efficient management. Regular dividends are not and cannot be guaranteed. Efficient management is the only safe basis for regular dividends. The stock of well managed companies will of course sell at a higher figure than the stock of poorly managed ones, similarly situated. The stockholders will still desire efficient management both to insure their dividends and to enable them to dispose of their stock at a higher price when they have occasion to sell it. All things considered there seems to be good reason to believe that the proposed plan will tend towards greater rather than less efficiency.

Some holders of present common stocks may say that they would not be interested in the kind of common stock proposed. That is undoubtedly true. But there are other investors who would be more interested in it. The price of any stock depends upon security and stability, the present and prospective yield, and the general state of the market. There is nothing unfair in such a plan to the stockholder who buys the stock with the limitation of dividend attached. The price automatically adjusts itself to the public estimate of its value. Those who think it a good buy at that price buy it and those who think it too high leave it alone. The only interest the public has in the financing of the utility is that the total amount disbursed for the use of capital, in the form of interest and dividends, shall be at the minimum consistent with the ability of the company to get additional capital whenever needed for growth and extensions. There is no reason to suppose that the average cost of capital would be increased by the plan under discussion. It would still be necessary in the case of an infant utility to place the initial issue of stock at the low figure commensurate with the risk. At the same time it would not be possible for the stock of an adult utility to double and treble in value as has often happened in the past.

In some states utilities are prohibited by law from issuing additional stock at less than par. It sometimes happens that a utility cannot market its stock at par or better at a time when money for extensions or betterments is urgently needed in the public interest. In such a case the more flexible arrangement of stock without par value would have decided advantages.

Even if such a plan as that outlined is desirable there remains the whole difficult problem of putting it into operation. In a matter of such importance it is surely worth while to try to find the best possible solution and then strive to come as near to it in practice as we can.

COMMENTS ON NON-PAR VALUE PUBLIC UTILITY STOCK

By the Department's Editor

The author of "Public Utility Stock—Can We Do Better," casually puts his finger on the difficulty of his plan—"putting it into operation." Indeed how can it be carried into effect without the prior formulation of policies to which, apparently, the author gives little consideration.

If we were starting *de novo* with our utilities, there could be no serious objection to the non-par value basis of capitalization discussed. It would have complete flexibility to meet changing conditions of the market. It would be based upon actual investment and would provide a definite rate base, shown by the accounts, and not subject to dispute in any proposed rate adjustments. It would provide for scientific rate-making, based upon exact facts and not upon variable and indeterminate quantities. If established by statute, it would probably be sustained by the courts.

NOT STARTING WITH CLEAN SLATE

But we are not starting with a clean slate, and a new statute. In the normal case we have a company which has various grades of par value securities outstanding, with the common stock, at least, representing no definite quantity of investment. Moreover, under the law, backed by the force of the Supreme Court of the United States, it is the "fair value" of the property and not the *investment* upon which rates must be based. To be sure, no one knows with definiteness how the "fair value" is to be determined—how the several elements, oft repeated by numerous tribunals, shall be computed. That, however, does not matter—proper consideration must nevertheless be given to all factors according to the circumstances of each case. Having

before us the latest decision and opinion of the Supreme Court, we must keep especially in mind the *reproduction cost* of the properties.[1]

Under these circumstances, there is indeed a difficulty in putting into effect the simple non-par value plan, with fixed and limited dividends. On what basis will the existing securities, especially the par value stock, be replaced by non-par shares? To effect the transition would require thorough legislation of such comprehensive character as to meet the variously complicated financial structures of existing companies and to establish the fundamental law relating to "fair value" and the right of the companies to a return. For this purpose, an initial valuation of all existing properties would be necessary, fixing once for all, definitely and permanently, the "fair value," and providing that for all future additions and extensions actual investment shall be the fixed basis of "fair value."

In legislating to that end, great care would have to be exercised in establishing a rule for the valuation of the existing properties so as to provide for such "fair value" as would pass the scrutiny of the courts. The present rights as recognized by the law cannot be brushed aside, but must be given a fair equivalent in terms of the greater definiteness and certainty assured to the companies for the future. What is such an equivalent? This is a matter for legislative determination subject to judicial surveillance. It would require the most careful formulation of policy, with the fullest regard to the requirements of effective regulation, the financial stability of the companies, and fairness to existing investors under present law; the finest balancing of private rights and legitimate public purposes.

When such constructive legislation has been established and an initial valuation of existing properties has been made, then a non-par value plan, with fixed dividends, could be readily put into operation, and it would provide satisfactorily for effective regulation both from the standpoint of readily administrable procedure and the financial security of the companies. There would be no grave difficulty then in exchanging the par value for non-par value shares. The conversion might even be enforced through the legislation providing for the whole system of new regulation. The definite rights of one class of stocks would merely be changed into equivalent rights of another kind. In such an exchange there should be no fundamental legal obstacle if the rest of the effective system passes judicial muster.

[1] Indianapolis Water Case, decided by the Supreme Court on November 22, 1926.

NO GREAT ADVANTAGE

But if there has been enacted the kind of constructive legislation just outlined and if the existing properties have once been valued so that there is a definite rate base established for each company, it is difficult to see any great advantage in non-par over par value stock. The basic thing accomplished is the establishment of an exact rate base, permanent, non-fluctuating, beyond dispute in proposed rate adjustments. Whether thereafter the return allowed is a fixed rate per year upon par value, or a fixed number of dollars upon non-par shares, appears to be not very important. Since special legislation would be needed for either course, it would be quite as easy in the interest of flexibility to permit the sale of stock at the market price, below par value, as to provide for the issuance of non-par shares. The choice would certainly be between *fiddle-de-dee* and *fiddle-de-dum*, provided that in either case the basic facts of the initial valuation and subsequent additional investment are shown by the accounts and the returns allowed are definitely fixed.

Personally, I have nevertheless a distinct preference or prejudice in favor of the *fiddle-de-dee* of par values. For public utilities, the par capitalization serves more readily to show directly the rate base or the amount of investment or "value" which the public is required to support through rates charged for service. If adjusted to basic valuations, it furnishes more simple statistical information to ordinary non-technical individuals. But I should not be disposed to argue much for par value,—give me non-par shares if we may have the other constructive legislation necessary for a sensible system of regulation. To establish such a system is the real task for those who realize the utter chaos, waste, and futility of our present policies and methods.[2]

[2] The problems involved in establishing such a system have been comprehensively treated by the writer in "Effective Regulation of Public Utilities," Macmillan Company, 1925. See also articles on special phases of the subject: "Rate Base for Effective and Non-Speculative Railroad and Utility Regulation," *The Journal of Political Economy*, August, 1926; "The Problem of Effective Regulation of Public Utilities," *Harvard Business Review*, October, 1926; "Reproduction Cost and Desirable Public Utility Regulation," *The Journal of Land and Public Utility Economics*, October, 1926; "The Supreme Court Speaks Again on 'Fair Value;'" National Municipal Review, February, 1927.

The I. C. C. Railroad Valuations and the Supreme Court.—On February 21, 1927, the Supreme Court of the United States handed down a vastly important decision refusing to interfere with the work of the Interstate Commerce Commission as required by an act of Congress.

As everybody knows, the commission has been employed during recent years in making the railroad valuations called for by the 1913 Valuation act. Its general plan has been to make the valuations for each railroad as of a certain date—June 30, 1914, in the particular instance. It based the valuation principally upon the reproduction cost, less depreciation, at prices prevailing during the five years prior to the date of the inventory. In addition to such a valuation, it has required each carrier to make subsequent continuation reports, stating for each year the retirements and the cost of all additions to the property. Just how the data thus collected, the initial valuation and the continuation reports, are to be used for the purpose of rate-making or otherwise, has not been definitely established by statute or by order of the commission. The basic facts, however, are thus available to be used as may be warranted in any particular action.

The Los Angeles-Salt Lake Railroad Company had obtained an injunction in the Federal District Court of Southern California against the order of the commission fixing the "final value" of its property. The matter was appealed to the Supreme Court which dissolved the injunction. The opinion was delivered by Mr. Justice Brandeis, who pointed out that the so-called order by the commission does not command the carrier to do anything, or forbid anything, or in any way grant, impose or withhold any duty or privilege, or determine any right or obligation. Consequently the order complained of could not injure the company. It was merely a formal record of certain conclusions based upon data collected through extensive investigation as required by the Valuation act. It was a duly legal exercise of powers granted by Congress. It cannot be reviewed by the courts.

Judge Brandeis points out, however, that when the valuation fixed by the order is used for the purpose of rate-making or otherwise imposing a duty or limiting a right, the carrier may then bring an action if it deems itself illegally injured by the then order which does affect actual rights and privileges. The decision, therefore, has its importance in overruling the lower court which by casual injunction would destroy all the Commission's valuations and set aside a general policy formulated by Congress,—nullify a vast work performed at enormous public expense.

The valuations, of course, have been intended primarily for rate-making purposes, and under the 1920 Transportation act, for recapture of excessive earnings. Just how they are to be used has not been determined. Since they are based primarily upon pre-war prices, they may require some adjustment for present higher price levels in order to pass judicial muster. This is one of the questions which doubtless will ultimately come to the Supreme Court for decision. But in the present case there was no such issue, or any point of litigation. The decision merely permits the commission to proceed with its statutory work and leaves for the future determination all real issues which may arise as to the valuations in connection with rate-making or otherwise.

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Farewell Report of the Pennsylvania Giant Power Board.—This is presumably the last report of the famous body created under the leadership of former Governor Pinchot of Pennsylvania. For the present, at least, the entire constructive program formulated by the board has been defeated. The Giant Power Bills presented to the legislature of the commonwealth last year were strenuously opposed in every important respect by the large electric companies serving the state and were defeated. Their scope and significance have been discussed in this department as well as in special articles in the REVIEW. The ultimate influence of the board is certain to be great—outside of Pennsylvania as well as in. It is already working, with promise of effectiveness, in the great neighbor New York.

The report includes much concrete material which will be of use to persons interested in power developments, rates, utility finance, and problems of regulation. The body of the report makes a brief statement of the work done by the board and the larger issues of the power problem. Besides there are twelve appendices which include a summary of the 1926 Giant Power Bills, an article on Giant Power by Philip P. Wells (from the October, 1926, NATIONAL MUNICIPAL REVIEW), a study of the appreciation of the common stocks of holding companies controlling electric utilities in Pennsylvania, a study of the

cost to serve electric power consumers by the electric power utilities in the state of Pennsylvania, and a report on the "rate spread" for electric service by public utilities in Pennsylvania.

The last two studies mentioned were made by Mr. O. M. Rau of the Pennsylvania public service commission. They bring out concretely and forcefully the general point repeatedly referred to in this department—that electric rates are mostly based upon haphazard practice and not scientific determination of cost—and particularly that the *spread* or *differential* commonly existing between the lowest and highest rates charged by a company has no warrant whatever in proper cost analysis. Here is one of the fundamental problems in rate-making which has scarcely been touched by the commissions anywhere in the country.

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Water Power in New York and Elsewhere.—Those who followed the account last month of the water power question in New York, will be interested in a brief statement of the situation just before copy goes to the printer. It appears that in all probability Governor Smith's "Power Authority" plan will be defeated in this session of the legislature, and that instead a special "Power Commission" bill will be passed, which is likely to be vetoed by the governor. This commission would investigate the entire subject of water power development in the state, "with particular reference to ascertaining and forming a conclusion for consideration by the legislature regarding the policy which the state should adopt as to the manner in which the water power resources of the state should be utilized and hydro-electric energy developed therefrom, whether by the state, by a state agency or power authority, by private capital or in any other manner that will best conserve the public interest, accomplish the efficient and complete development of such resources!" The commission would be appointed jointly by the governor and the legislature, and it would report its findings in January, 1928, accompanied with legislative bills to carry out its recommendations.

In terms this bill sounds fair enough; but, really, there is little to be gained by such further investigation. The facts and issues are plain: the policy depends upon personal points of view and interests. The governor wants a state power authority. The Republican legislature wants private licenses, and stands to gain by delay and by the ponderous dicta to be delivered by conservative gentlemen of influential names, —which are fairly numerous among New York Republicans and are available for such a commission. The issue is likely to be conspicuous in the assembly elections next fall.

The power issue has been gaining in "paramountness" all over the country. The Boulder Dam project was defeated by a senate filabuster for the present. But it will doubtless rise before the senate again, as will "Muscle Shoals," and the recent report of the Federal Trade Commission on the vast power consolidations which have been effected during the past few years. These three matters will be discussed in this department next month.

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Home Rule and the Indeterminate Permit.—This is one of the important issues discussed during recent months by the municipalities and the legislature of Illinois. The proposed legislation has been summarized in these columns before, including the special studies and reports made by Dr. Delos F. Wilcox and by Corporation Counsel Francis X. Busch of Chicago. An interesting further discussion appears in the January-February number of the *Illinois Municipal Review*, by Dr. Edward W. Bemis. He particularly illuminates the question by a historical account of how the forces between state and local regulation have operated. He points out the principal evils that have developed under state regulation and indicates how they would be counteracted by practical provisions of home rule. Reprints of the article may be obtained by request to this department.

JUDICIAL DECISIONS

EDITED BY C. W. TOOKE

Professor of Law, Georgetown University

THE CITY'S CONTROL OVER OTHER UNITS OF GOVERNMENT

By James D. Barnett

University of Oregon

In the recent case of *La Grande* v. *Municipal Court*[1] the Supreme Court of Oregon held that a city operating under a "home-rule" charter may not invest the circuit court with appellate jurisdiction over the municipal court.

In cases where the home-rule charter has not been involved there has been conflict in the decisions of the courts as to the powers of a city, in the absence of positive constitutional or statutory authority, to control the agencies of the state or of other municipalities situated within its borders. Property of the state or of other municipalities, at least where devoted to a "public" use, is thus held to be exempt from taxation by the city, although special assessments (for benefits received) are usually permitted.[2] Building regulations have,[3] and have not [4] been allowed so to apply; and it has been held that the locality may not regulate the salary of the state court exercising jurisdiction within its limits although paid by the locality.[5] But the city may abate a nuisance on country property.[6]

There is similar confusion in cases involving "home-rule" charters. The courts have allowed the application of city building regulations to a school district,[7] and the application of its vaccination regulations to a school district.[8] On the other hand, it has been held that a city may not apply municipal sanitary building regulations to the school district,[9] nor impose the duty of maintaining a bridge upon county authorities,[10] nor, conversely, contract the power of such authorities by assuming jurisdiction over county roads or bridges within the city limits,[11] nor transfer the power of regulating public service corporations from the state commission to the city council.[12]

The exact question involved in the principal case has also received contradictory answers. It has been held that the city may confer original or appellate jurisdiction in municipal matters upon state courts sitting in the locality.[13] On the other hand, it has been held that a city may not regulate the jurisdiction, original or appellate, nor the procedure of such courts.[14]

A more than ordinarily strict construction of

[1] 251 Pac. (Or.) 308 (1926).

[2] Dillon, Mun. Corp. (5th ed.) 2431 6, 2577-8 (1911).

[3] *Bowers* v. *Wright*, 4 W. N. C. 460 (1877); *Salt Lake City* v. *Board of Education*, 52 Utah 540, 175 Pac. 658, 659 (1918).

[4] *Milwaukee* v. *McGregor*, 140 Wis. 35, 121 N. W. 642 (1909); *Kentucky Institution for Blind* v. *Louisville*, 123 Ky. 767, 97 S. W. 402 (1906); *Salt Lake City* v. *Board of Education*, 52 Utah 540, 175 Pac. 654 (1918).

[5] *Landon* v. *New York*, 49 How. Prac. 218 (1875); *Jarvis* v. *New York*, 49 How. Prac. 354 (1875).

[6] *Samuels* v. *Nashville*, 3 Sneed 298 (1855); *Llano* v. *Llano Co.*, 5 Tex. Civ. App. 132, 23 S. W. 1008 (1893); *Victoria* v. *Victoria Co.*, 94 S. W. 368, 371 (1906), reversed on other grounds, 100 Tex. 938, 101 S. W. 190 (1907).

[7] *Pasadena School District* v. *Pasadena*, 166 Calif. 7, 134 Pac. 985 (1913).

[8] *State* v. *Zimmerman*, 86 Minn. 353, 90 N. W. 783 (1902).

[9] *Board of Education* v. *St. Louis*, 267 Mo. 356, 184, S. W. 975 (1916).

[10] *Kiernan* v. *Portland*, 57 Or. 464, 462, 111 Pac. 379, 382, 112 Pac. 402 (1910).

[11] *West Linn* v. *Tufts*, 75 Or. 304, 146 Pac. 986 (1915); *Cole* v. *Seaside*, 80 Or. 73, 156 Pac. 569 (1916); *Christie* v. *Bandon*, 82 Or. 481, 162, Pac. 248 (1919).

[12] *Portland Ry., Light & Power Co.* v. *Portland*, 210 Fed. 667, 671 (1914).

[13] *Union Depot Ry. Co.* v. *Southern Ry. Co.*, 105 Mo. 562, 16 S. W. 920 (1891); *Kansas City Ry. Co.* v. *Marsh Oil Co.*, 140 Mo. 458, 41 S. W. 943, 945 (1897); *Stevens* v. *Kansas City*, 146 Mo. 460, 48 S. W. 658 (1898); *Grand Ave. Ry. Co.* v. *Lindell Ry. Co.*, 148 Mo. 637, 50 S. W. 302 (1899); *Grand Ave. Ry. Co.* v. *Citizens' Ry. Co.*, 148 Mo. 665, 50 S. W. 305 (1899); *State* v. *District Court of Ramsey Co.*, 87 Minn. 146, 91 N. W. 300, 303 (1902). Cf. *State* v. *District Court of St. Louis Co.*, 90 Minn. 347, 97 N. W. 132, 135 (1903).

[14] *Fawcett* v. *Superior Court*, 14 Wash. 604, 45 Pac. 23 (1896); *Badgley* v. *St. Louis*, 149 Mo. 122, 50 S. W. 817, 818 (1898); *State* v. *Seehorn*, 246 Mo. 541, 151 S. W. 716 (1912); *Cohen* v. *St. Louis Merchants' Co.*, 193 Mo. 90, 181 S. W. 1080, 1082 (1916); *Sapulpa* v. *Land*, 101 Okla. 22, 223 Pac. 640 (1924). Constitutional provisions vesting in state courts general jurisdiction or appellate jurisdiction over inferior courts have been held to be not self-executing. *Fawcett* v. *Superior Court*, 14 Wash. 604, 45 Pac. 23, 25 (1896); *La Grande* v. *Municipal Court*, 251 Pac. (Or.) 308, 310 (1927). But see Hoyt, C. J., dissenting, *Fawcett* v. *Superior Court*, above.

the city's powers has in some cases been favored by the principle that statutes do not apply to the state or to any of the "arms" of the state unless these are expressly mentioned,[15] and so has the fact that such powers have often been conferred by express statutory authority.[16] The constitutionality of such delegation of power has, apparently, not been doubted by the courts, but has often been presumed.[17] It has been declared, in this connection, that "the creature cannot control the creator" (the state);[18] and the same principle has been applied to maintain the *status quo* of the municipality, an "arm" of the state.[19] The powers granted by law to the agencies whose control is attempted have been construed to prohibit action on the part of the city.[20] However, it has been considered that where the power exercised by the city was not vested in the other agency the city might supply the deficiency;[21] but this has been denied.[22] It has been urged that any dangerous encroachments by the city in following out this principle [23] may be prevented by state legislation.[24]

In some cases the grant of home-rule charters has been construed to make the people of the city and the state legislature coördinate authorities in this connection. "A charter is the organic law of a city in this state, whether it emanate from the general assembly, or is framed and adopted by the people of the municipality by authority of the constitution. Being a law for the government of the municipality, it is binding upon all courts, and it violates no principle of our government to say that the courts, when called upon, must enforce these municipal laws, unless they conflict with the constitution, and are not in harmony with the constitution and laws." [25] But it is generally established that home-rule provisions do not confer upon the city powers beyond what are purely "municipal." [26] Certainly the power to control other agencies of government cannot properly be termed "municipal." Logically the same principle exactly applies here as applies to extra-mural operations of the city.[27]

The decision in the principal case has been followed by a bill in the legislature expressly authorizing appeals from municipal courts to the circuit court.

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Right of City to Control Cab-Stands at Railroad Stations.—The control of a city over its streets carries with it the power to make all reasonable regulations over traffic. The streets are held in trust for the public, and the duty is imposed upon the municipal authorities to prevent the existence therein of any such obstruction as will constitute a nuisance. The king's highway is not to be used as a stable yard (*Wells* v. *Callanan*, 107 N. Y. 360), but the city may prescribe such reasonable rules for parking cars as will promote the more efficient use of its streets. This power, of course, is subject to the right of access of the owners of land abutting on the streets, and an interference with this right by the standing of vehicles at the curb has frequently been enjoined in actions prosecuted by them (*Schopp* v. *St. Louis*, 117 Mo. 131; *Branahan* v. *Cincinnati Hotel Co.*, 39 O. St. 333). Ordinances regulating traffic must therefore reasonably respect these rights of the abutting owner; but subject to this qualification from a very early day the power of the city to set aside part of its streets for cab-stands has been universally recognized (*Willard Hotel Co.* v. *D. C.*, 23 App. D. C. 272; *Park Hotel Co.* v. *Kitchin*, 184 Wis. 182). The reasonable exercise of this police power has always been upheld over public transit corporations operating under municipal franchise as well as over other common carriers.

[15] *Milwaukee* v. *McGregor*, 140 Wis. 35, 12 N. W. 642 (1909); *Morristown* v. *Hamblen Co.*, 130 Tenn. 242, 188 S. W. 796 (1906); 17 An. Cas. 1003 (1910).

[16] *Cole* v. *Seaside*, 80 Or. 73, 156 Pac. 569, 571 (1916).

[17] *Morristown* v. *Hamblen Co.*, 130 Tenn. 242, 188 S. W. 796, 797 (1916).

[18] *Cole* v. *Seaside*, 80 Or. 73, 156 Pac. 569, 573 (1916); *Kentucky Institution for Blind* v. *Louisville*, 123 Ky. 767, 97 S. W. 402 (1906).

[19] *Morristown* v. *Hamblen Co.*, 130 Tenn. 242, 188 S. W. 796 (1916).

[20] *Fawcett* v. *Superior Court*, 14 Wash. 604, 45 Pac. 23 (1896); *Wilson* v. *Medford*, 107 Or. 624, 215 Pac. 184 (1923).

[21] *Pasadena School District* v. *Pasadena*, 166 Calif. 7, 134 Pac. 985 (1913); *Cook County* v. *Chicago*, 311 Ill. 234, 142 N. E. 512, 516 (1924).

[22] *Salt Lake City* v. *Board of Education*, 52 Utah 540, 175 Pac. 654, 656 (1918).

[23] *West Linn* v. *Tufts*, 75 Or. 304, 146 Pac. 986 (1915).

[24] *Pasadena School District* v. *Pasadena*, 166 Calif. 7, 134 Pac. 985, 986 (1913).

[25] *Kansas City* v. *Marsh Oil Co.*, 140 Mo. 458, 41 S. W. 943, 946 (1897). See also *State* v. *District Court*, 87 Minn. 146, 91 N. W. 300, 303 (1902).

[26] *Portland Ry., Light & Power Co.* v. *Portland*, 210 Fed. 667, 671 (1914); *Sapulpa* v. *Land*, 101 Okla. 22, 223 Pac. 640 (1924); *La Grande* v. *Municipal Court*, 251 Pac. (Or.) 308 (1926).

[27] *Fawcett* v. *Superior Court*, 14 Wash. 604, 45 Pac. 23 (1896); *West Linn* v. *Tufts*, 75 Or. 304, 146 Pac. 986, 988 (1915); *La Grande* v. *Municipal Court*, 251 Pac. (Or.) 308, 310 (1926).

It is fundamental that no city can by contract surrender its police power or shackle its exercise thereof (*Schappi Bus Line* v. *City of Hammond*, 11 Fed. (2d) 940, 1926).

The question as to exercise of its police power to regulate traffic on private lands which have been devoted to a public interest, as by the establishment of taxi-stands upon the lands of a railroad company set aside for the use of vehicles serving patrons of the railroad, has recently been before the federal courts in the cases of *D. L. & W. R. R. Co.* v. *Morristown*, 14 Fed. (2d) 257 and *Black & White T. & T. Co.* v. *Brown & Yellow T. & T. Co.*, 15 Fed. (2d) 509.

In the first of these cases, the Circuit Court of Appeals for the Third Circuit upheld an ordinance of the town establishing a public taxicab-stand on railroad property upon the grounds, first, that the company by contract made in 1912, at the time the tracks were elevated, granted to the town such right of regulation; and, secondly, that independently of such a grant the ordinance was valid as an exercise of the police power. The first ground based upon the stipulation of the contract "that the town may and shall exercise all necessary police powers in and upon the station, station grounds, approaches and driveways, for the purpose of regulating foot and vehicular traffic at said station, and for the enforcement of the rules and regulations of the railroad companies in respect thereto" seems a plausible basis for the decision, but it may well be doubted whether the intention of the parties covered such a control as here exercised or that such a contract could in any way enlarge the police powers of the municipality. If the decision is to be sustained, it must be upon the second ground, that the ordinance establishing a public stand for taxis upon the property of a railroad is a valid exercise of the public power. The decision seems to be opposed to the opinion of the Supreme Court of the United States in *Donovan* v. *The Pennsylvania Co.* (199 U. S. 279), in which Justice Harlan brilliantly delimited the rights of a railroad company to control the use of its station lands.

In the second case, decided by the Circuit Court of Appeals, Sixth Circuit, on November 6, 1926, and involving the respective rights of taxicab companies operating in the city of Bowling Green, the court vigorously upheld the right of the railroad company to control the taxicab privileges on its own property, and sustained an injunction against the interference by the defendant with the contractual rights of the plaintiff. The defendants largely relied upon certain statutes of the state of Kentucky forbidding discrimination by common carriers, which were of doubtful applicability, but the court took the broad ground that the question was one of general law in which the federal courts would not necessarily follow the law of the state. The court affirms that the rule is well settled that, "when not unnecessary, unreasonable, or arbitrary, a railroad may make arrangements, including the granting of special privileges to a single concern, to supply passengers arriving at its terminal with hacks and cabs, and it is not bound, at least in the absence of valid state legislation requiring it to do so, to accord similar privileges to other persons, even though they be licensed hackmen."

The position taken by the court in the Bowling Green case seems based upon sound principles and upheld by settled authority, and we shall be surprised if the Morristown decision is not reversed by the Supreme Court. Neither case involved the question of the relative rights of the public and the railroad company in the control of the streets contiguous to the passenger terminals in establishing cab-stands, a question which in certain of its phases may be far more difficult to solve as it involves all the problems of conflict between the police power of the city in regulating parking and the rights of access of abutting owners.

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School Funds—Right of Creditor to Compel Transfer of County Funds to School Treasury.—In *Fawcett* v. *Bell*, county treasurer, decided December 2, 1926, by the Supreme Court of California (251 Pac. 679), the plaintiff, a school teacher to whom accrued salary was due, was held not entitled to compel the county treasurer by writ of mandamus to transfer funds on hand to the school treasury to enable it to pay its obligation to him. The statutes of California provide that bills against school districts when audited and approved shall bear interest at 6 per cent, and in order to provide funds in anticipation of taxes the county treasurer, upon certification of the local superintendent, shall transmit funds to the school treasury not to exceed 90 per cent of the amount certified to be needed, to be returned out of the first money secured as taxes. While the court held that the school funds were absolutely subject to the control of the state, the districts being mere agencies for the administration of a public state function and therefore the

statute was constitutional, it refused to mandamus the county treasurer upon the ground that his petition did not show what funds were available for transfer in view of the rights of other districts to make similar requisitions. Although not advanced by the court, it seems plain that no creditor would have such an interest as to give him the right in any event to invoke mandamus to compel the transfer of the public funds from one agency to another.

In most states the school district is, perhaps, the best example we have of quasi-municipal corporations organized to carry out a purely governmental function of the state with few if any powers beyond those expressly delegated. Thus in *Robertson* v. *Board of Education* (135 S. E. 863; Dec. 15, 1926) the Supreme Court of North Carolina holds such a state agency has no implied power to purchase land for a school site, and the Oklahoma Supreme Court in *School District* v. *Bath* (250 Pac. 1003, Nov. 23, 1926) holds that no power exists in the district to contract for services of teachers beyond the term of the current fiscal year.

✠

Legislative Control—Effect on Municipal Contract of Failure of a State Officer to Act.—The extent to which the control of the state over municipal affairs may be exercised is illustrated by one point which arose in the case of *Litchfield Construction Company* v. *New York*, recently decided by the Court of Appeals (244 N. Y. 251, 155 N. E. 116). By the Rapid Transit Act of 1891, the public service commission for the first district was authorized, subject to certain limitations, to make contracts in behalf of the city for subway construction. The contract in question was thus made in 1915, and the instant case involved the question of the final adjustment of payments due the plaintiff. By the terms of the contract, the work was to be done according to plans and specifications furnished by and subject to the inspection and approval of the engineer of the commission. Due to the delay of the engineer in promptly furnishing plans and issuing the required permits to the contractor, the latter suffered damages to the extent of some $813,000 for which he made claim against the city. The Appellate Division had held that this amount could not be recovered against the city on the ground that the engineer of the commission was a state officer for whose acts or omissions the city was not liable.

In reversing the decision of the lower court and holding the city liable, the Court of Appeals admits that the public service commissioners are not officers of the city, and that the control of the state over the building of the subways is based upon the interest of the public at large, as evidenced by the authority conferred upon these state officers to make contracts for their construction. Nevertheless, the building of rapid transit railroads like the laying out and improvement of streets and highways constitutes a "city purpose," and the city acts "not as sovereign, but as proprietor." The interest of the state gives it the right to regulate and control the letting of the contracts, and the construction, but all the acts of the appointed agencies so far as rights and liabilities which may accrue therefrom are those of the city. The contract, therefore, must be regarded as entered into voluntarily by the city, and is subject to the same construction as though entered into by the city without the direct or indirect control of the state. The plenary character of the power of the state over the construction of streets and transit facilities as exemplified by the instant case has been approved by the United States Supreme Court in *Boston* v. *Jackson*, 260 U. S. 309 (1922), which involved the question of the power of the state to impose taxation upon the city for the maintenance of the Boston Elevated Railway.

✠

Powers—Effect of Act Consolidating City and County.—In *Graham* v. *Philadelphia*, 135 Atl. 908, the Supreme Court of Pennsylvania passed upon the effect of the Consolidation Act of 1854 on the question whether the salaries of persons employed in prisons are to be fixed by the council of the city of Philadelphia or by the inspectors of the Philadelphia county prisons in whom that power was vested by a statute of 1835. This controversy had been first raised in 1924 by the refusal of the council to appropriate moneys to pay the salaries fixed by the inspectors.

In holding that this power had not been given to the city, the court points out that while by the Consolidation Act the powers and liabilities of the county so far as they concerned revenues, finances and taxation had been transferred to the city (*Philadelphia* v. *Commonwealth*, 52 Pa. 454) when the city and the county were made coterminous, the county was preserved and continued as one of the counties of the state. Therefore all the powers of the county not expressly granted to

the city were retained by it. Although the moneys to pay the employees of the county prison must be raised and appropriated by the city, the determination of the amount of compensation to be paid them still remains with the inspectors of the prisons. Repeal of statutes by implication is not favored, especially where the effect of a general affirmative statute upon a previous particular statute is in question. The legislative intent is to be determined not only by this rule but by reference to other similar acts of the legislature (Pennsylvania R. R. Co.'s Appeal, 213 Pa. 373). An exception of the city and county of Philadelphia from the operation of a general act of 1889, giving this power to the boards of prison inspectors, is construed by the court as having been so worded for the purpose of making the practice uniform throughout the state, a somewhat peculiar if not altogether unique construction to be placed upon such a proviso.

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Zoning—Exclusion of Undertaking Establishments from Designated Areas.—In *ex parte* Ruppe, decided January 12, 1927, by the District Court of Appeals, Second District, of California, 252 Pac. 746, the petitioners by writ of habeas corpus sought to be released from the custody of the chief of police of Los Angeles, by whom they were detained upon a conviction for having violated the zoning ordinance of the city which restricts undertaking establishments to certain designated areas. The establishment in question was located a mile and a half from the nearest area open to such business, and the claim was advanced that as the population of the city since the enactment of the legislation some seven years ago had doubled, the ordinance had become in effect unreasonable, oppressive and against public policy. The ordinance had been sustained as a valid exercise of the police power in 1920 in the well-known case of *Brown* v. *Los Angeles*, 183 Cal. 783; 192 Pac. 716. The court appointed a referee to take testimony and held that, while it was apparent that conditions had materially changed, they were not such as would overcome the presumption of the reasonableness of the ordinance even at the present day.

While undertaking establishments are not a nuisance *per se*, they belong to that class of lawful businesses, such as livery stables and brick yards, which from their nature are apt to become nuisances in thickly settled neighborhoods and are therefore peculiarly subject to municipal regulation both as to their location and method of operation. The general well-settled rule is that, in the absence of legislation forbidding their establishment, no one who is not injured in person or property by their careless operation, can maintain an action to enjoin their establishment in a given neighborhood, but within the last three years, the highest courts of Alabama, Kansas and Missouri have affirmed the power of a court of equity upon petition of neighboring property holders to enjoin the erection of such establishments as private nuisances in residential sections, without regard to the way they may be conducted.[1] The power of municipalities under comprehensive zoning ordinances to confine undertaking establishments to specified areas has been uniformly upheld, whenever it has been exercised reasonably and the ordinance has not been discriminatory in inception and design.[2]

[1] *Higgins* v. *Block* (Ala.), 104 So. 429; *Leland* v. *Turner*, 117 Kans. 294, 230 Pac. 1061; *Tureman* v. *Ketterlin* (Mo.), 263 S. W. 202.

[2] *Osborn* v. *Shreveport*, 143 La. 932, 79 So. 542; *Meeger* v. *Kessler*, 147 Minn. 182, 179 N. W. 732.

GOVERNMENTAL RESEARCH CONFERENCE NOTES

EDITED BY RUSSELL FORBES

Boston Finance Commission.—The Finance Commission of the city of Boston was engaged during March in: Examining and reporting on the city budget for the year 1927; examining and checking payments made on mothers' aid cases by the overseers of the public welfare department; checking requests for abatement of taxes; and checking contracts for street and parkway construction work.

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Committee on Finance (Chicago).—The Committee on Finance of the city council of Chicago has recently carried on the following projects:

A study, in conjunction with the board of education of Chicago and Cook county, to obtain a more scientific and equitable valuation of real estate and personal property.

Preparation of a bond issue program of about $20,000,000, to be submitted to a referendum vote on April 5.

A detailed analysis of the annual budget amounting to $212,000,000, passed by the city council on January 19, 1927.

Investigation of compensation obtained in private employment, by various groups and classes of employees.

Investigation to determine the economic life of small automobiles used for patrol service by the police department.

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Citizens' Research Institute of Canada (Toronto).—The Institute published in February a report entitled, "Dominion Tax Reductions." This report showed dominion tax amendments in 1926, and under the heading "Where should dominion tax amendments be made?" gave as an illustration some of the main proposals put forward by various Canadian organizations. The report dealt with each suggestion separately, giving pros and cons with recommendations that, in the Institute's opinion, were feasible and generally beneficial to the Dominion at large.

The second of the annual cost-of-government-in-Canada series, "Provincial Government," has been published. The third of the series, "Dominion Government," is in course of preparation and will be issued in the near future. The value of this series is becoming better recognized each year. Legislators and city officials are able to see almost at a glance how their city compares with others of like population. Provincial governments are able to compare easily their revenues and expenditures with other provinces. Members of the Dominion Government, through this series, can tell just where their revenue comes from and how the money is spent.

It has been decided to hold the 1927 convention of the Canadian Tax Conference in Toronto.

The Institute coöperated with the provincial treasurer of Ontario in preparing a statement of per capita taxation in Canada, United States, Great Britain, and Australia.

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Delaware Taxpayers' Research League.—The Taxpayers' Research League of Delaware has prepared and submitted to the budget committee of the general assembly a plan for centralizing the purchase of state supplies in the hands of a state purchasing agent, accompanied by a bill for putting this plan into effect. The potential saving is estimated to be from $50,000 to $100,000 per year.

A plan for issuing 25-year serial bonds instead of 40-year, straight-term bonds for future highway construction has also been completed by the League, which has prepared a bill on the subject now in the general assembly.

Probably the first thorough analysis of the state sinking fund of Delaware ever made has been completed by the Taxpayers' Research League, and has disclosed surplus sinking funds of approximately $800,000. A plan has been suggested to state officials by the League for absorbing this surplus by the retirement of state highway bonds owned by the sinking fund, which will save to the revenues of the state highway department over $2,600,000 during the time which these bonds would otherwise run.

At the request of the Women's Joint Legislative Committee, the League made a study of

conditions under which the muskrat industry is pursued in Delaware. It prepared a bill providing for the licensing of trappers, the identification of traps, the daily visiting of traps, the periodic reporting of catches, and the abolition of the ordinary steel trap.

The League has about completed its study of the bonded debt of the state. It has under way its study of the causes and extent of non-voting in Delaware, and a statewide campaign for stimulating citizen interest and increasing the League membership.

✻

The Albert Russel Erskine Bureau for Street Traffic Research, Harvard University.—The Bureau, under the direction of Dr. Miller McClintock, is bringing to a close this month the street traffic survey of the city and county of San Francisco which it has conducted during the past year.

The peculiar traffic difficulties in San Francisco resulting from the hill problem, the four-track street railway system on Market Street, and the unique layout of downtown streets will result in a number of innovations in traffic control according to the indications of the preliminary report.

In general the code for San Francisco developed by the Bureau will be similar to the one recently designed by that agency for the city of Los Angeles. With some modifications, the Los Angeles code has been approved for state-wide adoption, and the majority of the larger cities of the state are now working under uniform traffic regulation. The San Francisco report will include not only proposals for a comprehensive system of traffic regulation, but will also incorporate administrative and judicial changes for effective traffic enforcement.

✻

Finance Committee, Harrison, N. Y.—The research secretary of the Finance Committee of the town of Harrison, N. Y., has been making an analysis of the expenditures of that town by governmental units over the period 1921–1926, which will be of invaluable help in formulating a comprehensive fiscal program.

✻

Indianapolis Chamber of Commerce.—The civic affairs department of the Indianapolis Chamber of Commerce succeeded in having passed, at the session of the legislature just closed, a bill to require treasurers of cities of the first class to account for interest on public improvement assessment funds. Hitherto the treasurer has taken this interest money for himself, and it has amounted to $35,000 or $40,000 a year. The department also obtained enactment of a bill to reduce from 6 to 2 per cent the amount of delinquent tax fees retained by the treasurer. This legislation will reduce the income of the treasurer of Marion county, in which Indianapolis is situated, from nearly $100,000 to about $15,000 per year.

✻

Kansas City Public Service Institute.—The Kansas City Public Service Institute has just completed a report on the general organization and operation of the government of Jackson county, in which Kansas City is located. It is hoped that, as a result of this report, a plan for reorganization of the county government may be devised.

The Institute has under way a detailed study of the welfare activities of the county, including the organization and business operation, as well as the social service features of the various welfare activities. These activities in Jackson county are quite extensive, and there is a feeling that there is much room for improvement in both business methods and in the methods of handling the work of the various county institutions. The report on this study will not be completed for some time.

Other studies under way include analysis of the financial condition and operating methods of the water works, a study of the needs for extensions of mains, and a preliminary study looking toward a ten-year financial and improvement program for the city and county governments.

A pamphlet on the governmental research movement and its relation to the science of public administration has been prepared for local use and will be ready for distribution shortly.

✻

Los Angeles Bureau of Budget and Efficiency.—The Bureau is preparing a schedule of public improvement to be spread over a period of five years and to be submitted in connection with the tentative budget for the ensuing fiscal year. This schedule takes into consideration all expenditures for public improvements from special improvement funds and also proceedings which are put through by special assessment.

The difficulties of an exceptionally low net tax rate, the rapidity of growth of the major areas, and the annexation of the adjacent territories make the budgeting of the necessary improve-

ment programs quite complex. It is further complicated by the fact that the area of the city of Los Angeles at the present time comprises some 434.22 square miles.

✻

The Ohio Institute.—The Ohio Institute is at present engaged chiefly in assisting several legislative committees. Certain of the measures with which it is concerned deal with the following subjects: Classification of prisoners in state institutions; extension of sentence for certain types of prisoners; state budget; state school aid; school district reorganization; county reorganization.

✻

Philadelphia Bureau of Municipal Research.—Messrs. Beyer, Patterson, Shenton, and Howland of the staff of the Bureau are conducting a class in municipal government at Swarthmore College this spring.

Those who concern themselves with how municipal research gets over the goal line will be interested in the following tale of the activities of the Philadelphia Bureau in a campaign for serial bonds in Philadelphia. The ball is not yet over the line, but from the stands it looks as though the home team were in possession of the ball on the one-yard line.

During March and April of last year the city council was considering new loan authorizations totaling $54,750,000. Three issues of *Citizens' Business* were devoted to the relative merits of serial bonds and term bonds, the only kind the city has floated for many years. One of the issues gave detailed calculations proving that over the life of the proposed loans the serial plan would result in a saving of about $5,740,000, assuming that the bonds would bear 4 ¼ per cent interest, a conservative assumption at the time, and using the rates of sinking-fund earnings used by the city in fixing the amount of payments to the sinking funds. This issue of *Citizens' Business* was directly responsible for 60 column inches of newspaper publicity, half of it in the news columns, the other half vigorous editorial comment favoring the Bureau's position.

Almost immediately, members of the Bureau staff were invited to a conference with the leading city officials to discuss the matter. Although the loan ordinances were not amended so as to permit the issuance of serial bonds, the officials agreed to look further into the question.

A few months later the *Evening Bulletin*, with a circulation of over 500,000, started a campaign for serial bonds, running daily articles, most of which featured the Bureau, and giving statements by prominent bankers and business men in favor of serial bonds.

Meanwhile, the question captured the interest of another group. The Philadelphia Chamber of Commerce had appointed a committee on taxation and public expenditure and had invited the director of the Bureau to become a member of the committee. A sub-committee was appointed to look into the question of serial bonds for Philadelphia, and this committee, composed mostly of bankers or men familiar with problems of finance, turned to the Bureau for assistance.

At the request of the sub-committee the Bureau prepared an elaborate memorandum dealing chiefly with the mathematical aspects of sinking-fund bonds versus serial bonds. Tables comparing net cost, annual burdens, and gross burdens for sinking-fund bonds, straight serial bonds, and equal-annual-burden serial bonds were included. Other items of miscellaneous information were also furnished.

The sub-committee also investigated the question of the legality and marketability of serial bonds. Opinions of leading bond attorneys to the effect that there was no legal obstacle in the way of serial bonds were secured. A number of large bond dealers who were consulted were unanimously of the opinion that serial bonds could be marketed to as good advantage as term bonds, and possibly to better advantage. These considerations, together with the material furnished by the Bureau, prompted the sub-committee to sponsor a report which sustained almost every contention which the Bureau has made on the serial-bond question. The report of the sub-committee was adopted by resolution by the main committee and also by the directors of the Chamber of Commerce.

On the same day on which the Chamber of Commerce took this action the mayor appointed a committee to investigate the subject, but this committee has made, as yet, no report.

✻

St. Paul Bureau of Municipal Research.—The Bureau invited all the Ramsay county representatives in the state legislature to a meeting at which the Bureau offered its services in analyzing pending legislation. This offer met with hearty approval. Reports have been prepared and issued on teachers' pension systems, the proposed bond issue for county charitable institutions, and distribution of gasoline tax to local communities.

San Francisco Bureau of Governmental Research.—A booklet to be called, "Ten Years of Municipal Research," is being prepared and will soon be published by the San Francisco Bureau. The booklet is intended to review the principal Bureau accomplishments since it was founded in October, 1916, and to outline its future program. It is for general distribution to the more than 600 members of the Bureau and to prospective members. Since the publication by the Governmental Research Conference of its booklet, "Twenty Years of Municipal Research," many useful excerpts on bureau methods and policies have been incorporated in the local publication.

A study is about completed of the financial history of new school construction in San Francisco for the last eight years. The study will include the present status of the school building program, both financial and physical; what will be the requirements; and recommendations of how these may be financed.

For the purpose of informing the public generally on the status of all city funds for the first six months of the fiscal year, and also to have accurate and comprehensive information on the trend of municipal expenditures for budget recommendations, the Bureau has compiled statements on the actual expenditures and encumbrances of all city funds as of January 1, 1927, and estimates of anticipated revenues for the fiscal year.

The Bureau has recently published a report concerning the 1927 award of the Impartial Wage Board on wages paid to building trades crafts in San Francisco. Reports have also been published on wages received by city employees for similar services, and on the necessity for the completion of a salary standardization report by or through the civil service commission as a solution of the constantly-recurring problem of proposed salary increases.

⚜

Toronto Bureau of Municipal Research.—The Bureau has published a White Paper dealing with the reasons for the increased tax rate and commending the city council for their action. The White Paper points out that the Bureau has always advocated a pay-as-you-go policy and strongly denounced the postponing of payment of current obligations.

Following a newspaper report of increases amounting to $100,000 in civic salaries suggested by the civic survey commission, an open letter was prepared and sent to the members of the city council.

A meeting of the Ontario Municipal Association Executive (of which the director of the Bureau is secretary-treasurer) was held, and the information which had been collected and tabulated relative to the proposed income tax exemptions was presented to the Premier of Ontario.

⚜

Utah Taxpayers' Association.—The Association has introduced a bill to the legislature requiring that serial bonds shall be the form of bonding in the state and its political sub-divisions.

MUNICIPAL ACTIVITIES ABROAD

EDITED BY W. E. MOSHER

Report on Lunacy.—A royal commission has just issued a report based upon an inquiry into the methods of caring for people suffering from mental disorders. The commission made a survey both of private and public institutions. According to a review of the report entitled "Royal Commission on Lunacy and Mental Disorder" (H. M. Stationery Office, 3s 6d), the investigation was most thorough and the recommendations that grew out of it most constructive. One of the outstanding features is the insistence upon complete revision of the local attitude toward mentally afflicted people. The keynote of the future should be prevention and treatment. This calls for the provision of facilities whereby people may be treated without pressure or formal commitment. The importance of proper treatment for incipient disorders is stressed.

Reference is also made to the reluctance of the medical fraternity to certify to insanity because of the liability of prosecution. Recommendations are made that look toward giving protection to physicians in this procedure.

Although new expenditures are required if the recommendations are put into effect, the report indicates that there will be savings which will partially offset such increases if facilities for early treatment are more adequate, thereby making possible recuperation before institutional treatment is required.—*Local Government News*, October, 1926.

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Housing Progress.—The minister of health reported in the House of Commons last July on the progress being made in the housing situation in England. In an act passed in 1924 it was deemed necessary for England to build 175,000 houses a year for twenty years. In 1925–26 173,000 were actually built, and of these 153,000 are working-class houses. This achievement seems the more noteworthy when one considers the heavy burden to which public authorities in England have been put because of the extensive unemployment and industrial disturbances.

The progress in housing has been accompanied by a growing appreciation of town planning. According to the minister of health, over 2,000,000 acres are now subject to town planning, and steps are rapidly being taken toward regional schemes. At present there are thirty-six regional plans in operation, involving 550 different authorities and a population of 17,550,000.—*Local Government News*, October, 1926.

✻

Training for Public Administration.—Perceptible progress is being made in England in the direction of training in public administration. The University of Manchester is the first to give a degree of Bachelor of Arts in Administration, the course including the following subjects: political economy, political philosophy, sociology, social administration, psychology. A recent survey shows that a number of universities are teaching individual courses in public administration, while Birmingham and Manchester already grant certificates. The London School of Economics has also taken under advisement the granting of a diploma in Public Administration.

This movement is being accelerated by the activities of the Institute of Public Administration, whose influence is rapidly increasing under the leadership of Lord Haldane. As a matter of fact the Institute has considered the advisability of granting a diploma under its own authority so that regular membership in the Institute would give one a kind of professional status. This would be in line with the practice of certain engineering societies.

Any account of the educational work that is designed for those already in the public service would be incomplete without reference to the imposing array of courses that are offered by the Civil Service Educational Council. Among some of the titles are the following: estate management; law of local government; municipal organization, parliamentary procedure, statistics and legal rights and duties of the citizen. In addition to what might be termed the technical courses is to be found a series of those which according to the announcement aim to "enlarge the field of knowledge, to cultivate their powers of abstract thought, to refine taste in matters of literature and art and generally to enrich leisure by the pursuit of new intellectual interests."—*Institute of Public Administration, Monthly Notes*, October, 1926; *Whitley Bulletin*, September, 1926.

County Government in Germany.—An authoritative work on the subject of the Government of German counties (*landkreise*) has just been published. The authors of the work are Dr. Constantin, the head of the German Landkreistages and Dr. Erwin Stein, the general secretary of the Union of Communal Administration and Politics. This work is a symposium consisting of individual contributions from about fifty qualified officials.

Anyone acquainted with the development of the government appreciates how rapidly the responsibilities of the *landkreis* unit of administration have grown. This is a comprehensive statement of the workings and significance of this unit of government.—*Zeitschrift für Kommunalwirtschaft*, December, 1926.

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Expenditures for Public Welfare.—To one acquainted with the fluctuations in industry, finance and trade in Germany, the amount of money spent by local governments in the name of public welfare is nothing less than astounding. The burdens upon the municipal government in this direction have, of course, greatly increased because of the after-effects of the war. For instance, in the city of Danzig the expenditures under this item have jumped from 1.6 million gulden in 1913 to 5.9 millions in 1926. In 1913 17 per cent of the budget went for public welfare. This grew to 25 per cent in 1925 and 32 per cent in 1926.

Not only has there been an expansion in the established functions, but activities along new lines have increased in recent years. Similar increases in other cities have taken place.—*Danziger Statistische Mitteilungen*, September, 1926.

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Bonus to Public Servants.—The Borough Council of Wimbledon recently passed a resolution providing that the salary of the electrical engineer in charge of the municipal plant should be increased by a bonus of 2½ per cent on profits in excess of a stated figure.

In commenting upon this resolution, the editor of the *News* takes a decided stand against any such procedure on the ground that public utility enterprises are not carried on for financial profit, and that it would be a dangerous thing to stimulate management to administer such a function for the purpose of making profits. In the judgment of the editor, any profits accrued should be used in reducing the rates to the consumer.—*The Local Government News*, December, 1926.

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Centralized Recruiting.—A law was passed last July by the government of the Irish Free State calling for the centralized recruiting of the public employees in local governments. According to this measure limited classes of officers, graded according to duties, are to be selected by the "Local Appointments Commissioners." The classes covered are the chief executive officials, county secretaries, town clerks, as well as professional and technical officials.

The local authority has the right to fill vacancies to such positions by promotion or by the appointment of a pensioner. Otherwise they are to place a request with the commissioners to make recommendations. The latter may recommend, if they think proper, two or more persons. Generally speaking, candidates will be selected by competitive examination, conducted under a standing or special selection board that is chosen for each class of appointments.

Suspension is permitted in case of misconduct or default either by the local authority or the minister.—*Local Government News*, December, 1926.

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Moving Picture Taxes.—The percentage of taxes imposed upon moving picture theaters in forty German cities are brought together in tabular form in a special survey of this type of taxation. With one exception all of these cities provide for reduction on films of a cultural or an educational character. In a few cases where the performance consists largely of educational or cultural films the tax is entirely eliminated. In Berlin, for instance, the provision calls for a customary tax of 15 per cent. If, however, two hundred meters of the films shown deal with cultural and educational materials the amount imposed is 14 per cent, but when such matter constitutes one half of the program the amount of the tax is 10 per cent.—*Mitteilungen des Deutschen Staedtetages*, December, 1926.

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Infant Mortality.—A conference of experts, operating under the Committee of Hygiene of the League of Nations, has recently made a report on the protection of infants. It is recommended that an international commission be appointed to take up special problems connected with infant

mortality, and it is proposed that the members of the conference coöperate by making observations in their respective countries. These observations should deal with two urban and two rural regions and should be made both from the medical point of view and that of public hygiene. Among other things, it is hoped that there will be a unification of methods of registering infantile deaths which should be based upon definitions worked out under the auspices of the committee. Special reference is made to the immunization campaign against diphtheria, measles and scarlet fever. It is anticipated that both favorable and unfavorable experiences with such methods will be brought together so that a covering report may be made available for all interested.—*Les Sciences Administratives*, December, 1926.

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Public Reporting.—In view of the increasing consideration being given to public reporting attention might well be directed to the monthly bulletins of the Statistical Bureau of Danzig. The last three issues received (Nov. 6, Dec. 4 and 30) contain summary reports on various municipal activities and conditions for the year 1925. Among these are the following: Criminal statistics, fires and fire losses, functions and activities of the welfare bureau, comparative data on public employees from 1913 to 1925, unemployment for 1923–26, traffic accidents, increase in the number of automobiles, and various other matters pertinent to the life of the city.

The effort is consistently to make the material readable and readily understandable. For instance, it is pointed out in the article on automobiles that of the 1113 passenger cars in the city, 209 are Fords, or one in every five, and that, although in the United States there is one automobile to every six people, in Danzig there is only one to 179.

Perhaps the most interesting account in the whole series of reports is that of the welfare bureau. It offers a bird's-eye view of the various functions performed by the bureau, as well as statistical matter indicating how extensive they have become in the post-war years. The first place is assigned to the assistance, both financial and other, to those injured in the war and the survivors of those killed. Assistance to the unemployed occupies the next important place. This covers such items as financial aid for travel, help for the winter period, milk, money to meet premiums on sickness insurance, etc.

A paragraph of the report is devoted to the fight against alcohol, another to legal advice and still another to the effort made to improve housing conditions by developing garden colonies and small gardens. A special section of the bureau carries on secretarial work. Among other things it keeps records of all persons who receive assistance of any kind, either by public or private agencies. Another function has to do with the administration of funds left the city for charitable purposes.

The growth of the activities of the welfare bureau are measured in terms of money and of the number aided. As to the former, the 170,000 gulden assigned to public welfare in 1914 climbed to 1,580,000 gulden in 1926. The 1261 aided in 1924, apart from those who received regular pensions in the form of cash, had increased to 5800 in 1926.

The above list of activities and the data covering the number of those assisted by the bureau of public welfare will indicate why it is that the top place in the expenditure column of the German municipal budget is devoted to public welfare.

NOTES AND EVENTS

EDITED BY H. W. DODDS

More Cities Require Safe Milk.—Extensive interest of cities in the nation-wide campaign against tuberculosis of livestock is seen in results of a survey recently conducted by the United States department of agriculture. A total of 874 cities and towns have ordinances requiring the tuberculin testing of cattle furnishing milk for consumption. Official reports indicate that with the exception of about 1 per cent the ordinances are fairly well enforced.

The action of such cities as Chicago, Cleveland, Detroit, and Louisville in promulgating tuberculin-test requirements has stimulated recent interest in this subject. The survey showed, however, that the smaller communities also are fully as active in safeguarding their milk supplies.

In addition to the 874 cities having tuberculin-test ordinances, 375 provide an option between tuberculin testing and pasteurization. Thus a total of 1,249 municipalities have taken positive steps to safeguard their milk supplies from possibility of disease transmission.

Fourteen states also have enacted laws or have issued regulations authorized by law requiring the tuberculin testing of cattle. Though varying in details, the laws have the same general purpose —to safeguard the wholesomeness of milk supplies. In all cases tuberculin tests must be applied by approved graduate veterinarians.

As a basis for skilled tuberculin testing in which the public may have confidence, the federal and state veterinary officials have prepared lists of "accredited" and "approved" veterinarians. These terms apply to private practitioners who have satisfied federal and state authorities as to their qualifications.

An examination of the forms of supervision over the tuberculin testing of cattle supplying cities with milk shows the large extent to which cities have accepted the so-called uniform plan of testing. This plan provides federal and state indemnities for cattle which prove to be tuberculous and which are removed from the herd and slaughtered. The plan is followed by 634 cities. Cities that rely on municipal inspection alone number 498, while 117 other cities and towns use a combination of the two safeguards or make some other provision for tuberculin testing.

A study of reports from the various states explains the rather general adoption of pasteurization as an additional safeguard even when the cattle are tuberculin tested. Proper pasteurization, as is well known, destroys any infection from other disease-producing organisms that may be present. It also gives double assurance that no living tubercle bacilli are present.

Several states have issued educational literature dealing with bovine tuberculosis, the evidence of transmission to human beings, plans for eradication, and laws and regulations for suppressing the disease.

Besides this means of stimulating interest in safe milk supplies, various state officials have drafted sample milk ordinances based on successful ordinances elsewhere. In these are embodied effective and practical provisions for dealing with the tuberculosis problem.

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Forecast of Capital Expenditures for Cardiff, Wales.—There has recently come to our attention a ten-year forecast of capital expenditures for Cardiff, Wales, prepared by Mr. John Allcock, the city treasurer and controller. This is an interesting document, setting forth the loan charges at the end of each fiscal year until March 31, 1935, and showing their effect upon the tax rate. The forecast during this period takes into consideration the carrying out of the town planning scheme, the contemplated roads linking up the eastern and western sides of the city, and the further allowance for extension of and improvement to existing roads and sewers. The expenditures for these purposes are estimated to average 125,000 pounds per annum. Additional forecasts are made on the construction of schools, waterworks, and housing projects. The forecasts are presented in a series of tables, showing in each instance the rate required to meet the expenditure for each year. Finally, these rates are summarized and presented for the ten-year period on a line graph.

Mr. Allcock's reason for emphasizing the rates, he states very succinctly: "I am quite convinced if rates increase, as they must unless capital expenditure is suspended, that for this reason the city will eventually suffer owing to

difficulties in attracting new trades and businesses. One of the greatest inducements towards the establishment of new businesses and trades in our midst is to be found in the levying of a reasonable rate." His forecast in a nutshell advises the council "to pass a resolution to close down the capital account, except for present commitments or for remunerative undertakings, for a period of five years, unless such future proposals for the expenditure of capital moneys can be proved to be *imperative* in the general interests of the city, and . . . even then only those works should be undertaken *which cannot possibly be done without*."

A. E. Buck.

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Present Status of Milwaukee's Debt Elimination Plan.—Milwaukee has originated a scheme for the elimination of the city's public debt through the Amortization Fund law passed in 1923. Each year not less than one-third of the interest received by the city from various sources is applied to this fund, instead of being used to reduce taxes by that amount as had been done previously. The fund now amounts to $1,374,639—a little more than 4 per cent of the total bonded indebtedness.

The city controller estimates that at the end of fifty years the city will have contributed $12,650,000 to the Amortization Fund and the earnings will have been $35,277,000, which will wipe out all debts. Thereafter it is planned to proceed on the pay-as-you-go plan.

The Amortization Fund law also provides for the establishment of a Civic Foundation Fund to hold in trust all gifts and bequests donated by citizens for the purpose of eliminating the public debt. The fund is administered by five trustees —two appointed by the mayor, one appointed by the senior circuit judge of Milwaukee, one appointed by the president of the bank having the greatest savings deposits in Milwaukee, and one selected by the other four.

For the first twenty-five years the Civic Foundation Fund is in existence, one-fourth of the annual net income is to be credited to the Amortization Fund. For the next twenty-five years, one-half of the annual net income goes to the Amortization Fund, and thereafter seven-eighths of the annual net income goes to the Amortization Fund. As yet only $215 has been donated, but the administration hopes that some wealthy citizen will leave Milwaukee his wealth.

The Amortization Fund law states that when the fund equals three-fourths of the bonded indebtedness, "then three-fourths of the annual interest on said fund shall be applied to pay the interest on any outstanding bonds and to assume new bond issues of such city, or as the public debt commission may from time to time with the approval of the common council apply the same for any purpose for which municipal bonds may be legally issued."

There are no instructions in the act as to the disposition of the remaining fourth of the income, or of the principal. There is no assurance that this fund when it accumulates to several million dollars may not be used to purchase the street cars, or what not. If the object is to eliminate the city's debt, a surer way would have been for the legislature to require the city to finance a certain percentage of its capital outlays out of current revenues.

Harold L. Henderson.

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Stores in Residence Zones.—Before the zoning resolution adopted in New York ten years ago, the occasional grocer or butcher would jump his shop into some street corner in the heart of a residential district, thinking he could short-circuit the business of the neighborhood. He was usually shortsighted, and oftener than not he made a failure of it. It would not have been so bad if he were the only one hurt, but the effect was to hurt a large number of home owners. Wagon deliveries, noise, litter and increased fire risk were introduced into a quiet home district. There are plenty of cases where the bad result has continued for two generations. The misplaced store has never prospered, but the neighborhood has never revived.

The zoning plan seeks to keep stores on business streets and residences on residence streets. This makes business streets more attractive and rentals better because the street is solid business. It also makes residence streets more attractive and rentals better because there are no invasions of misplaced stores. Women prefer to do their marketing on a street having many stores. In the thickly-settled parts of the city no one needs to walk further than three minutes to reach a business street, and in the outlying districts not more than five.

Since zoning there has been a marked tendency toward one-story stores in the suburbs—sometimes two-story with the upper story arranged for offices. Stores with families above should be

relegated to the dark ages of the past. The play space of small children ought not to be near fruit and vegetables exposed for sale. Ashes and waste from upstairs should not stand in front of stores. Sanitary streets should be all business and no families. One of the best tendencies of zoning is to make business streets business only and residence streets residence only.

In New York neighbors can prevent business and business signs in residence districts by complaining to the building department. The complaint should state that the business has been started since July 25, 1916, when the zoning resolution went into effect. These invasions are usually without structural changes. If the owner sought a building permit, it would be refused and the invasion would be checked. Neighbors should be alert to notify the building department when these insidious invasions begin. The building department acts on complaints, and usually not before. It cannot know what business is started since 1916, but the neighbors can.

Certain customary incidental uses can be started at any time in a residence district. For instance, a doctor, lawyer, music teacher or dressmaker can work in his own home and put up a small sign. But this must be incidental to his residence on the premises. If he employs others, or erects display signs, then his business becomes the principal use and his residence is only incidental. On complaint the building department will stop these violations.

EDWARD M. BASSETT.

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Planning Powers in the Proposed Standard Act.—Students of government, as well as city planners, will scan with special interest the proposed "Standard City Planning Enabling Act" presented in preliminary form by the United States Department of Commerce, particularly that portion dealing with somewhat novel or untested powers. Whether progress in such directions should be evolutionary or revolutionary is ever a moot point. Perhaps the real answer is that in one community the one, and in another the other method should be used. Nearly all agree that cities should have further city planning powers. Not so many will agree with the proposal in the present draft act that city planning boards should have extensive powers to adopt binding city plans. In Massachusetts, at least, such a proposal today would tend to wreck all city planning. Until the lesser advance has been tried and found wanting, legislatures will look askance on such a departure from the current theory of lodging as much authority as possible in the local council or similar body (and its creature or the people's choice, the mayor). Only by such concentration is it expected to preserve and enhance the dignity of office necessary to secure able councillors. Moreover, it may be urged that the city plan is so vital that it should be one of the council's greatest concerns.

In the voluminous and invaluable annotations which accompany the draft act this devolution of power to plan the city, which has, of course, obvious merits, is defended in a novel way by setting up a third category of acts, in addition to the usual administrative and legislative functions, called the planning function, and adducing reasons why this should not be exercised by a body of short-term elected officials inevitably preoccupied with immediate needs. Similar arguments would appear to apply to zoning, which, however, the same committee of the department of commerce in its Standard Zoning Enabling Act leaves in the hands of the council. To be sure, the proposed city planning act permits the council to override the planning board by a two-thirds vote, a somewhat meagre majority for many partisan cities, and all propositions requiring the expenditure of public money remain in the council's hands, except for this moderate veto power of the board.

Thus, in Part III of the act, the proposal now before the legislature in Massachusetts, and known as the Nichols plan, is incorporated, though in somewhat changed form, to grant city councils the right, on recommendation of the planning board or over its veto, to protect the beds of proposed streets by condemning an easement against liability for damages to any building thereafter erected therein and subsequently removed when the street is actually taken by the usual method.

Part II standardizes the control of platting and extends it to include control of the width of lots as well as location of streets, and to authorize the refusal of permits for buildings not on approved streets. This should protect the city plan against improper platting far more effectively than under the usual current practise.

Part IV provides alternative methods for setting up regional planning commissions with broad advisory duties and actual planning powers in "non-municipal territory," those parts of townships which surround most cities outside of

New England and which are really merely local administrative divisions of the county.

It is very much to be hoped that defense as able as that afforded our zoning laws will successfully protect every one of the features of this inclusive planning act wherever it is adopted, either in whole or in part. While the recent successful application of zoning has itself been a great vivifier to comprehensive city planning, actual planning powers are obviously the big step needed to make city and regional planning generally effective.

ARTHUR C. COMEY.

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Administrative Reorganization Again Proposed in Oregon.—During the recent session of the Oregon legislature, Hector Macpherson, a member of the lower house, proposed a plan of administrative reorganization for the state government. However, the bills, which he introduced for this purpose, were defeated on a close vote in the house.

The plan proposed the creation of ten departments and the consolidation of the functions of practically all statutory agencies in these units. The elective officials other than the governor, namely, the secretary of state, the superintendent of public instruction, and the state treasurer, were to be associated with certain of these departments. The proposed departments were as follows: agriculture, labor and industry, finance, commerce, public works, public welfare, education, state police and military affairs, legal affairs, and state. All departments, except the department of education, were to be headed by single officials, called directors. The department of education was to be under the control of a board of nine directors, known as the state board of education. Otherwise, boards were to be entirely dispensed with as administrative agencies. In fact, such bodies were not to be used even in the performance of quasi judicial and quasi legislative functions. The directors were to be directly responsible to the governor except in two instances, the department of finance and the department of state, the treasurer and the secretary of state, respectively, being in charge of these departments. This arrangement was made on account of the constitutional limitations.

Following the defeat of his statutory plan of reorganization, Mr. Macpherson has started a movement for a constitutional amendment which, if adopted, will require the entire state administration to be refashioned into the ten departments mentioned above. Under this amendment the governor will be the only elective administrative officer, and he will appoint all department heads with the consent of the senate.

A. E. BUCK.

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Manager Bingham Resigns from West Palm Beach.—The course of city manager government in West Palm Beach, Florida, has been tempestuous. Several months ago, a movement was started by a disgruntled councilman to recall the manager, as is permitted by the charter. This effort expired in thin air, but a second attempt resulting in a recall election was made a few weeks ago, this time with the assistance of a contracting firm which was being forced to lay paving in accordance with specifications. Although the result of the recall election was an overwhelming vote in support of the manager, the opposition continued its sabotage by bringing suit to enjoin the issuance of certain municipal bonds in order to cripple the financial capacity of the government.

In spite of the 3 to 1 vote of confidence at the recall election, Mr. Bingham decided to resign rather than continue in a situation dominated by rotten politics. His resignation takes effect immediately, but his salary will be paid until October 1, the end of the present fiscal year.

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City Manager Progress in Three States.—The Illinois legislature is considering a bill extending to all cities of less than 500,000 population the opportunity to adopt city manager government. Under its provisions, the council will vary in number in accordance with the number of inhabitants. At present, the city manager form is optional for cities of less than 5,000 population only.

A bill is now before the Utah legislature providing optional director-manager government for cities of the first class and for cities of the second class of 30,000 population and over.

The Charleston county delegation to the South Carolina legislature has introduced a bill giving the city of Charleston manager government. The city council, to be five in number, will appoint the manager subject to removal at will.